GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE

BOMBAY CODE,

IN THREE VOLUMES.

VOLUME II:

CONTAINING

THE UNREPEALED ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL, UP TO THE END OF THE YEAR 1880,

WITH

A FULL CHRONOLOGICAL TABLE AND AN INDEX.

SECOND EDITION.

Calcutta:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1896.

Price Five Rupees.

PREFACE.

THIS, the second volume of the second edition of the Bombay Code, contains, with some exceptions, the unrepealed Acts of the Governor of Bombay in Council up to the end of the year 1880, with a chronological table showing as far as possible how each Act has been repealed or otherwise affected by legislation.

2. The exceptions referred to above are the Acts which were repealed by the Bombay Land-revenue Code, 1879 (Bombay Act V of 1879). That Code does not extend to the City of Bombay, and has not been extended to all the Scheduled Districts (see Appendix to Volume I of this Code), and it is possible that the enactments which it repealed, or some of them, may still be in force in some of those areas. The Acts referred to were all excluded from the last edition of the Bombay Code.

3. A short index is appended to the volume.

4. The volume is based on official copies of the Acts preserved in the Legislative Department. Though it cannot be described as "authoritative," its accuracy is guaranteed by the Legislative Department.

5. The following changes have been made in reprinting the Acts:—

(*a*) repealed matter has been omitted, explanatory notes being inserted; or, where this was not practicable, the repeal has been mentioned in a foot-note;

(*b*) amendments made by later Acts have been inserted in the text of the Act amended, with explanatory foot-

notes; or, where this was not practicable, the amendment has been mentioned in a foot-note;

(*c*) in the case of mere amending Acts, only the titles, or the titles and the preambles, have been printed, a note being inserted to explain that the amendments are incorporated in the principal Act as printed in the Code;

(*d*) references to repealed Acts have been altered as directed by the Act which effects the repeal, explanatory foot-notes being added; or, where this was not practicable, an explanation has been given in a foot-note;

(*e*) the number and year of enactments referred to in the text have been noted in the inner margin, except where both appear in the text;

(*f*) Arabic numerals have been substituted for the Roman numerals used in some of the earlier Acts to denote the section-numbers;

(*g*) section-numbers occurring in the text have been uniformly printed in figures, instead of in words;

(*h*) the marginal notes have in some cases been revised;

(*i*) a table of contents has in some cases been inserted;

(*j*) words belonging to Oriental languages have been uniformly spelt;

(*k*) lengthy sections have sometimes been divided into clauses and paragraphs;

(*l*) the headings to the pages have been amplified;

(*m*) some foot-notes, in addition to those mentioned in clauses (*a*), (*b*) and (*d*) above, have been added for convenience of reference.

6. In reading this volume it should be borne in mind that sections 3 to 12 (both inclusive) of the Bombay General Clauses Act, 1886 (Bombay Act III of 1886), have been declared by

section 13 of that Act to apply to all Acts of the Governor of Bombay in Council, whether passed before, during or after the year 1886.

7. This volume has been corrected up to the 1st February, 1896.

F. G. WIGLEY,

Personal Assistant to the Secretary,

Legislative Department.

CALCUTTA;

The 12th February, 1896.

NOTE.—The third volume of the new edition of the Bombay Code, and a Code for Assam, are now in the Press. To complete the revised edition of Mr. Whitley Stokes' collections of Indian Statute Law, there will remain to be published a new edition of the Collection of Statutes relating to India.

CHRONOLOGICAL TABLE OF ALL ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL UP TO THE END OF THE YEAR 1880.

[With respect to the entry of repealing enactments in the fourth column the practice has been as follows:—

(*a*) where an Act has been totally repealed more than once, the latest repealing enactment has alone been entered;

(*b*) where an Act has been partially repealed and afterwards totally repealed, the total repeal only has been entered: a repeal of the unrepealed portions of an Act is treated as a total repeal;

(*c*) partial repeals covered by later partial repeals have not been entered;

(*d*) local repeals covered by later local repeals have not been entered;

(*e*) where an Act has been locally repealed and afterwards repealed by an Act whose operation is unrestricted, the later repealing Act has alone been entered.]

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1862	I	Lands ceded by Gáikwár .	Rep. in part, Bom. Act III of 1886.	1
,,	II	*Municipal Commissioners.*	*Rep., Bom. Act VI of 1873; in Sindh, Bom. Act I of 1879, s. 4.*	
,,	III	*Hereditary Officers, Bombay (amending Act XI of 1843).*	*Rep., Bom. Act III of 1874.*	
,,	IV	Markets and Fairs . .	Rep. in part, Act XII of 1873; Act XII of 1876. Rep. in part and amended, Bom. Act III of 1886.	2
,,	V	Bhágdárí and Narwádárí Tenures.	Rep. in part, Act XII of 1873; Act XII of 1876; Bom. Act III of 1886. Declared not to be in force in the Pánch Mahále, Act VII of 1885.	4
,,	VI	Ahmadabad Táluqdárs .	Rep. in part, Act XII of 1876; Bom. Act III of 1886. Validated, so far as it affects the High Court, Act XIV of 1877, s. 39. Operation restricted, Bom. Act VI of 1888, s. 34.	8
,,	VII	*Port-dues (North Kanára)*	*Rep., Bom. Act XI of 1866.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1862	VIII	*Smoke of Furnaces (Bombay Town and Suburbs).*	*Rep., Bom. Act II of 1865.*	
"	IX	*Improvements in Towns (amending Act XXVI of 1850).*	*Rep., Bom. Act VI of 1873; in Sindh, Bom. Act I of 1879, s. 4.*	
"	X	*Fettering Prisoners* . .	*Rep., Bom. Act II of 1874.*	
1863	I	Vessels plying on Indus .	Rep. in part, Act XII of 1873; Bom. Act III of 1886.	13
"	II	Exemptions from land-revenue in territories subject to Act XI of 1852.	Rep. in part, Act X of 1876; Act XII of 1876. Rep. in part and amended— Act XVI of 1895; Bom. Act III of 1886. Supplemented, and application restricted (locally), Bom. Act IV of 1868. Application declared, Bom. Act V of 1879, s. 127.	17
"	III	Satára, Sholápur, Southern Marátha Country, Muchandi.	Rep. in part, Act IV of 1868; Act XV of 1874; Act X of 1876; Act XVI of 1895; Bom. Act III of 1886.	28
"	IV	*Port-dues (Aden)* . .	*Rep., Act XII of 1875.*	
"	V	Gas Companies . .	Rep. in part, Bom. Act III of 1886. Amended, Act XVI of 1895.	42
"	VI	Public Conveyances (Bombay Town, Suburbs and Harbour).	Rep. in part, Act XII of 1873; Act XII of 1876; Bom. Act III of 1886; Bom. Act III of 1888. Amended, Act XVI of 1895; Bom. Act V of 1887.	52

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1863	VII	Exemptions from land-revenue in territories not subject to Act XI of 1852.	Rep. in part, Act XII of 1873; Act X of 1876; Act XII of 1876. Rep. in part (locally), Bom. Act V of 1879. Rep. in part and amended, Bom. Act III of 1886. Amended, Act XVI of 1895. Supplemented, and application restricted (locally), Bom. Act IV of 1868. Application declared, Bom. Act V of 1879, s. 127.	65
"	VIII	*Small Cause Court (Karáchi).*	*Rep., Act XII of 1873.*	
"	IX	*Cotton-frauds*	*Rep., Bom. Act VII of 1878.*	
"	X	*Bank of Bombay*	*Rep., Act XI of 1876.*	
"	XI	*Census*	*Rep., Act XII of 1873.*	
"	XII	*Proceedings in Satára*		
"	XIII	*The Vehar Water Works Act.*	*Rep., Bom. Act II of 1865.*	
1864	I	*Municipal Commissioners, Bombay Town (amending Act XXV of 1858, s. 6).*		
"	II	Survey of Steam-vessels	Rep. (except s. 15), Act VI of 1884.	78
"	III	*Repealing parts of Bom. Regs. V of 1830 and VIII of 1831.*	*Rep., Act XII of 1873.*	
"	IV	*Native Law-officers*		
"	V	*Mámlatdárs' Courts*	*Rep., Bom. Act III of 1876.*	
"	VI	*Diet-money of persons imprisoned by Bombay Small Cause Court.*	*Rep., Act XV of 1882.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1865	I	The Bombay Survey and Settlement Act.	Rep. in part, Act XII of 1873; Act X of 1876; Bom. Act IV of 1868, ss. 16, 20. Supplemented, and application declared (locally), Bom. Act IV of 1868. Amended, Bom. Act I of 1875. Rep. locally (except ss. 37 and 38), Bom. Act V of 1879. Ss. 37 and 38 rep. locally, Bom. Act I of 1880.	79
,,	II	*The Bombay Municipal Act of 1865.*	*Rep., Bom. Act III of 1872.*	
,,	III	Wagers . . .	Rep. in part, Act XVI of 1895; Bom. Act III of 1886.	80
,,	IV	*Mufassal Jails* . .	*Rep., Bom. Act II of 1874.*	
,,	V	*Whipping in Bombay House of Correction.*		
,,	VI	*Destruction of Records* .	*Rep., Act III of 1879.*	
,,	VII	Religious Endowments (extension of Act XX of 1863 to Kanára).	.....	81
,,	VIII	[a] The Sindh Local Funds Act, 1865.	Rep. in part, Bom. Act I of 1884. Amended, Bom. Act I of 1884, s. 76.	81
1866	I	*Survey and Settlement (extending Bom. Act I of 1865 to Sindh).*	*Rep., Act XVI of 1895.*	
,,	II	*Divesting Revenue-Courts of certain suits.*	*Rep., Act X of 1876.*	
,,	III	*Gambling* . . .	*Rep., Bom. Act IV of 1887.*	
,,	IV	*Court of Petty Sessions, Bombay.*	*Rep., Act IV of 1877.*	

[a] This title was given by Bom. Act I of 1884, s. 2.

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1866	V	*Repealing Bom. Reg. XVI of 1827, s. 10.*	*Rep., Act XII of 1873.*	
"	VI	*Declarations of office* .	*Rep., Act X of 1873.*	
"	VII	The Bombay Hindú Heirs' Relief Act, 1866.	Rep. in part, Act XII of 1873; Bom. Act III of 1886.	83
"	VIII	Sale of Poisons . .	Rep. in part, Act XII of 1873; Act XVI of 1895; Bom. Act III of 1886.	86
"	IX	*The Bombay Regulations and Acts Extension Act, 1866.*	*Rep., Act XV of 1874.*	
"	X	*The Bombay General Clauses Act, 1866.*	*Rep., Bom. Act III of 1886.*	
"	XI	*The Bombay Port-dues Act of 1866.*	*Rep., Act XII of 1875.*	
"	XII	Courts (Sindh) . .	Rep. in part, Act XII of 1873; Act XVI of 1895; Bom. Act III of 1886. Amended, Bom. Act III of 1868.	93
"	XIII	Witnesses before Legislative Council.	Rep. in part, Act XII of 1876; Bom. Act III of 1886.	97
	XIV	Edulábád and Warangáon	Rep. in part, Act X of 1876; Act XII of 1876; Act XVI of 1895.	99
"	XV	*Bank of Bombay (amending Bom. Act X of 1863).*	*Rep., Act XI of 1876.*	
1867	I	*Bank of Bombay* . .		
"	II	*Edulábád and Warangáon (amending Bom. Act XIV of 1866).*	*Rep., Act XII of 1873.*	
"	III	*The Bombay Cantonment Act of 1867.*	*Rep., Act XIII of 1889.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1867	IV	*City of Bombay Municipality (amending Bom. Act II of 1865).*	*Rep., Bom. Act III of 1872.*	
,,	V	*Courts, Sindh (amending Bom. Act XII of 1866).*	*Rep., Act XII of 1873.*	
,,	VI	Sanitary Regulation (Bombay City).	Rep. in part, Bom. Act III of 1886. Amended, Act XVI of 1895.	101
,,	VII	The Bombay District Police Act, 1867.	Rep. in part, Act X of 1872; Act XII of 1873; Act XVI of 1874; Act X of 1886, s. 20. Rep. in part and amended, Bom. Act III of 1886. Rep. (save ss. 33 and 34), except in Sindh, Bom. Act IV of 1890. Ss. 33 and 34 rep. locally and temporarily, Bom. Act I of 1889. Supplemented, Act III of 1888.	108
,,	VIII	The Bombay Village Police Act, 1867.	Rep. in part, Act XII of 1873; Act XII of 1876; Bom. Act III of 1886; (locally and temporarily), Bom. Act I of 1889. Amended, Bom. Act I of 1876; Bom. Act III of 1886 (as amended by Bom. Act I of 1891). Supplemented, Bom. Act IV of 1890, s. 58.	120
,,	IX	*Sale of Liquor (Bombay City).*	*Rep., Bom. Act V of 1878.*	
1868	I	Deputy and Assistant Collectors.	Rep. in part, Act XII of 1873. Residue rep. (locally), Bom. Act V of 1879.	Not republished.

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1868	II	The Bombay Ferries Act, 1868.	Rep. in part, Act XII of 1873; Bom. Act III of 1886; (except in Aden and the City of Bombay), Bom. Act I of 1884. Amended, Bom. Act II of 1878.	127
"	III	Courts, Sindh (amending Bom. Act XII of 1866).	Rep. in part, Act XII of 1873.	132
"	IV	The Act for City Surveys and amendment of Bombay Survey and Settlement Act, 1868.	Rep. in part, Act XII of 1873. Residue rep. (locally), Bom. Act V of 1879.	Not republished.
1869	I	*The Bhor Ghât Accident Commission Inquiry Act, 1869.*	*Rep., Act XII of 1873.*	
"	II	*Tax on Professions and Trades (Bombay City).*	*Rep., Bom. Act I of 1870.*	
"	III	The Bombay Local Funds Act, 1869.	Rep. in part, Act XII of 1873; Act XII of 1876; Bom. Act III of 1886; (except as to Aden), Bom. Act I of 1884. Amended, Act XVI of 1895; (except as to Aden), Bom. Act I of 1884, s. 75.	133
"	IV	*The Bombay Town-duties Act, 1869.*	*Rep., Bom. Act III of 1872.*	
"	V	*Destruction of Records (Sindh).*	*Rep., Act III of 1879.*	
"	VI	*The Bombay Boiler Inspection Act, 1869.*	*Rep., Bom. Act V of 1873.*	
1870	I	*Repealing Bom. Act II of 1869 (Tax on Professions and Trades in City of Bombay).*	*Rep., Act XII of 1873.*	
"	II	*Official seals of Magistrates.*	*Rep., Bom. Act V of 1883.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1870	III	*Securing repayment of loan to Corporation of Bombay.*	*Rep., Bom. Act III of 1888.*	
"	IV	*Assignment for education out of City of Bombay Municipal Fund.*	*Rep., Bom. Act III of 1872.*	
"	V	*Fees for use of Bandars (Bombay City).*	*Rep., Bom. Act I of 1873.*	
1871	I	*Cost of Police* . .	*Rep., Bom. Act VI of 1873; in Sindh, Bom. Act I of 1879, s. 4.*	
"	II	*Duties on Non-agricultural classes.*	*Rep., Act XVI of 1895.*	
1872	I	Police, Bombay Town (amending Act XIII of 1856).	Rep. in part, Act XII of 1876; Bom. Act III of 1886. Amended, Bom. Act II of 1879.	135
"	II	*Repayment of Loan to Bombay Corporation.*	*Rep., Act XVI of 1895.*	
"	III	*The Bombay Municipal Act of 1872.*	*Rep., Bom. Act III of 1888.*	
1873	I	*The Bombay Port Trust Act, 1873.*	*Rep., Bom. Act VI of 1879.*	
"	II	*City of Bombay Municipality (amending Bom. Act III of 1872).*	*Rep., Bom. Act IV of 1878.*	
"	III	*Payments out of fees levied under Cotton Frauds Act.*	*Rep., Act XVI of 1874.*	
"	IV	*Survey of Steam-vessels (amending Bom. Act II of 1864).*	*Rep., Act VI of 1884.*	
"	V	*The Boiler Inspection Act, 1873.*	*Rep., Bom. Act III of 1887.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1873	VI	The Bombay District Municipal Act.	Rep. in part, Act XII of 1876; Bom. Act III of 1886. Rep. in part and amended, Act XVI of 1895. Rep. in part, Bom. Act II of 1884 (except in temporary municipal districts in existence when that Act came into force). Amended and supplemented, Bom. Act II of 1884. Supplemented, Bom. Act V of 1890.	139
"	VII	*The Bombay Salt Act, 1873.*	*Rep., Bom. Act II of 1890.*	
1874	I	The Bombay Tramways Act, 1874.	Rep. in part, Bom. Act III of 1886. Rep. in part and amended, Bom. Act II of 1895.	167
"	II	Jails	Rep. in part, Act IX of 1894; Bom. Act III of 1886. Amended, Bom. Act II of 1882.	185
"	III	The Bombay Hereditary Offices Act.	Rep. in part, Act XII of 1876; Bom. Act III of 1886. Rep. in part and amended—Act XVI of 1895; Bom. Act V of 1886. Rep. in part, amended and supplemented (locally), Bom. Act VI of 1887.	192
1875	I	Survey and Settlement (amending Bom. Act I of 1865).	Rep. (locally), Bom. Act V of 1879.	Not republished.
"	II	*City of Bombay Municipality.*	*Rep., Bom. Act IV of 1878.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1875	III	Tolls on Roads and Bridges.	Rep. in part, Act XVI of 1895; Bom. Act III of 1886; (except in Aden and the City of Bombay), Bom. Act I of 1884. Amended, Bom. Act V of 1881; (except in Aden and the City of Bombay), Bom. Act I of 1884, s. 77.	215
1876	I	The Bombay Village Police Act Amendment Act, 1876.	Virtually rep. in part, Bom. Act III of 1886.	219
"	II	The Bombay City Land-revenue Act, 1876.	Rep. in part, Bom. Act III of 1886. Amended, Act XVI of 1895.	222
"	III	The Mámlatdárs' Courts Act, 1876.	Rep. in part, Act XVI of 1895; Bom. Act III of 1886.	237
1877	I	The Bombay Vaccination Act, 1877.	Rep. in part, Bom. Act III of 1886. Rep. in part and amended, Act XVI of 1895. Amended, Bom. Act III of 1882.	247
"	II	*City of Bombay Municipality.*	*Rep., Bom. Act IV of 1878.*	
1878	I	*The City of Bombay Abkárí Act.*	*Rep., Bom. Act V of 1878.*	
"	II	Ferries (amending Bom. Act II of 1868).	.....	257
"	III	*The Bombay License Act, 1878.*	*Rep., Act II of 1886.*	
"	IV	*The Bombay Municipal Act Amendment and Continuance Act, 1878.*	*Rep., Bom. Act III of 1888.*	

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1878	V	The Bombay Ábkárí Act, 1878.	Rep. in part, Act XVI of 1895. Rep. in part and amended, Bom. Act III of 1886. Amended, Bom. Act III of 1892.	260
"	VI	*City of Bombay Municipality (amending Bom. Act III of 1872).*	*Rep., Bom. Act III of 1888.*	
"	VII	*The Bombay Cotton Frauds Act, 1878.*	*Rep., Bom. Act I of 1882.*	
1879	I	*District Municipalities (extending Bom. Act VI of 1873 to Sindh).*	*Rep., Bom. Act II of 1884 (except in temporary municipal districts in existence when that Act came into force).*	
"	II	Police, Bombay Town (amending Act XIII of 1856).	.....	280
"	III	*The Karáchí Landing and Wharfage Fees Act of 1879.*	*Rep., Bom. Act VII of 1882.*	
"	IV	The Karáchí Vaccination Act, 1879.	Rep. in part, Bom. Act III of 1886. Rep. in part and amended, Act XVI of 1895. Amended, Bom. Act III of 1882.	282
"	V	The Bombay Land-revenue Code, 1879.	Rep. in part, Bom. Act III of 1886. Rep. in part and amended, Act XVI of 1895. Rep. in part and amended (locally)— Bom. Act I of 1880, s. 39; Bom. Act VI of 1888, ss. 3 and 33. Amended, Bom. Act VII of 1879, s. 2; Bom. Act IV of 1886. S. 85 and part of s. 58 declared not to be in force in the Pánch Maháls, Act VII of 1885.	303

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1879	VI	The Bombay Port Trust Act, 1879.	Rep. in part, Bom. Act III of 1886 (as amended by Bom. Act I of 1891, s. 2 (*b*)). Amended, Bom. Act I of 1881; Bom. Act III of 1881; Bom. Act III of 1883; Bom. Act VI of 1883; Bom. Act III of 1888, s. 145.	377
,,	VII	The Bombay Irrigation Act, 1879.	Rep. in part, Act XVI of 1895; Bom. Act III of 1880; Bom. Act III of 1886.	416
1880	I	The Khoti Settlement Act, 1880.	Rep. in part, Bom. Act III of 1886.	437
,,	II	*The Bombay Municipality's Consolidated Loan Act, 1880.*	*Rep., Bom. Act III of 1888.*	
,,	III	*Irrigation (repealing part of Bom. Act VII of 1879).*	*Rep., Act XVI of 1895.*	

Page.
INDEX 451

THE BOMBAY CODE.

VOLUME II.

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL UP TO THE END OF THE YEAR 1880.

N. B.—SECTIONS 3 TO 12 OF THE BOMBAY GENERAL CLAUSES ACT, 1886 (PRINTED IN VOL. III OF THIS CODE), APPLY TO THESE ACTS.

BOMBAY ACT No. I OF 1862.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 4th April, 1862.)

An Act for bringing under the Regulations and Acts certain lands ceded by His Highness the Gáikwár for railway-purposes.

WHEREAS His Highness the Gáikwár has ceded to the Government of India certain lands for the construction of a railway through his territories, and it is necessary that those lands should be annexed to the Presidency of Bombay, and made subject to the laws and Regulations of that Presidency; It is enacted as follows:— Preamble.

1. All such parts of villages mentioned in the schedule [a] as have been delivered over by His Highness the Gáikwár to the Government of India for the construction of the Bombay, Baroda and Central India Railway, shall, from and after the passing of this Act, form part of the zila of Surat, and be subject to the Regulations and Acts which are or shall be in force within the territories subject to the Presidency of Bombay. Land delivered by Gáikwár for railway to form part of Surat Zila, and be subject to Bombay laws.

SCHEDULE.

Baroda Pargana.

1. Haldarva.	7. Miyágám.
2. Tosrod.	8. Karjan.
3. Vallan.	9. Kandári.
4. Dethán (Inámi).	10. Kerda.
5. Lákodra.	11. Sarád (Inámi).
6. Varva.	12. Kásipura.

[a] Words repealed by Bom. Act III of 1886 are omitted.

Baroda Pargana—continued.

13. Itola.
14. Varsala.
15. Vadnáma.
16. Dalipur.
17. Máritha.
18. Mánája.
19. Vadsar (Inámi).
20. Májalpur (Inámi).
21. Nágarváda.
22. Akota.
23. Jetalpur.
24. Gorva.
25. Kadodia.
26. Undera.
27. Bájuva.
28. Kadchia.
29. Ranoli.
30. Padamla.
31. Nandesri.
32. Fázalpur (up the river Mahi).

Surat Athávisi Pargana.

33. Sakhpur-urf Rond, Pargana Galet.
34. Pellotha, Pargana Vesráni.
35. Chuvácha, ditto ditto.
36. Kusumha, ditto ditto.
37. Tarsáli, ditto ditto.
38. Háturan, ditto ditto.
39. Varadla, ditto ditto.
40. Maroli Kasba.
41. Posra, Pargana Maroli.
42. Morvád, Pargana Telari.
43. Chinam, ditto ditto.
44. Tavri, ditto ditto.
45. Navsári Kasba.
46. Ságara, Pargana Navsári (Inámi).
47. Kadoli, ditto ditto.
48. Dánoda, Pargana Gandevi.
49. Bilimora, ditto ditto.
50. Desra, ditto ditto.

BOMBAY ACT No. IV OF 1862.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 24th April, 1862.*)

An Act for regulating the establishment of markets and fairs.

Preamble.

WHEREAS the establishment of new markets or fairs in the neighbourhood of places where markets or fairs have been previously established leads to disputes between the owners of the lands on which such new and previously established markets or fairs are held, and such disputes not unfrequently occasion breaches of peace and serious inconvenience to the frequenters of such markets or fairs; It is enacted as follows:—

No new market or fair to be established without permission.

1. [a]No person shall establish a new market or fair without permission, in writing, from the Magistrate of the district.

[a] Words repealed by Act XII of 1873 are omitted.

If any person shall attempt to establish a new market or fair without such license, he shall, on conviction by [a] a Magistrate of the first class, [a] be subject to a fine not exceeding two hundred rupees, or, in default of payment, to simple imprisonment for any period not exceeding two [b] months. Penalty for attempt to establish without license.

2. When any person desires to establish a new market or fair, he shall make application, in writing, to the Magistrate of the district. Person desiring to establish to apply to Magistrate

The application shall specify— Contents of application.

the name of the place at which it is proposed to establish such new market or fair;

the days on which it is to be held;

the name of the place where the nearest existing market or fair is held, and the days on which it is held;

the distance, in English miles, between the two places, and

the reasons of the applicant for desiring to establish the new market or fair.

3. On receipt of the application, the Magistrate shall issue a proclamation stating the desire of the applicant to establish a market or fair at the place named by him and the days on which it is proposed to be held, and calling upon any person who may have any objection to the establishment of the market or fair to state his objection, in writing, within six weeks from the date of the proclamation. Procedure on application.

The proclamation shall be fixed in a conspicuous place in the village or town in or near to which it is proposed that the new market or fair shall be held, and a copy of the same shall be affixed at the police-station within the jurisdiction of which the village or town is situated, and in the Court of the Magistrate. Publication of proclamation.

If it shall appear that any existing market or fair is held within a distance of four miles from the place where it is proposed that the new market or fair shall be established, the Magistrate shall cause a notice, to the effect of the proclamation, to be served upon the owner of the land where such existing market or fair is held. Notice to land-owner of neighbouring market.

The proclamation and notice (if any) shall be issued and served at the expense of the applicant.

4. If, within the time specified in the proclamation and notice (if any), no objection is preferred to the establishment of the proposed market or fair, the Magistrate of the district shall pass an order permitting it to be established. Order permitting establishment.

[a-a] These words were substituted for the original words by Bom. Act III of 1886.
[b] The word repealed by Bom. Act III of 1886 is omitted.

Enquiry into objection.

If within the time specified any objection is preferred, the Magistrate of the district shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case.

5. [*Markets and fairs established prior to passing of Act.*] *Repealed by Act XII of 1876.*

Appeal.

6. Every order passed by a [a] District Magistrate [a] under [b] section 4 [b] shall, within six weeks, be open to appeal to the Commissioner [c], and the order of the Commissioner shall be final.

Penalty for contravening, disobeying or opposing order.

7. Every person who shall contravene, disobey or oppose any order duly made under this Act shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment [c] for any period not exceeding two [c] months.

Extent.

8. This Act shall not extend to the Islands of Bombay and Kolába.

Exemption of religious assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at, or concerned in, any other religious festivals or ceremonies not forming a part of a fair or market.

Saving of general powers of Government.

10. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the [b] District Magistrate [b] or Commissioner [c] in regard to markets or fairs.

11. [*Meaning of "Magistrate."*] *Repealed by Bom. Act III of 1886.*

BOMBAY ACT No. V OF 1862 [d].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 24th April, 1862.*)

An Act for the preservation of the Bhágdárí and Narwádárí Tenures.

Preamble.

WHEREAS it has been found that the permanence of the tenures known as the bhágdárí and narwádárí tenures, which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing

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[a-a, b-b] These words were substituted for the original words by Bom. Act III of 1886.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d] Bom. Act V of 1862 has been declared not to be in force in the Pánch Maháls—see Act VII of 1885, s. 2, printed in Vol. I of this Code, p. 261.

practice of attachment and sale by civil process of the homesteads and building-sites ("gabhán") appertaining or appendant to the constituted bhágs, or the recognized subdivisions of such bhágs or shares, in bhágdárí or narwádárí villages;

and whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized subdivision of such bhág or share, or the alienation, assignment, mortgaging, charging or incumbering of any homestead, building-site (gabhán), or premises appurtenant or appendant to any such bhág or share, or recognized subdivision separately or apart from such bhág or share or recognized subdivision;

It is therefore enacted as follows:—

No portion of bhág in bhágdárí or narwádárí village to be liable to seizure, etc., by process of Civil Court.

1. No portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized subdivision of such bhág or share shall [a] be liable to seizure, sequestration, attachment or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such bhág or share or recognized subdivision thereof, of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized subdivision thereof.

On issue of such process, Collector may move that it be set aside or quashed.

2. Whenever any process has issued out of any Civil Court for the seizure, sequestration, attachment or sale of any portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized subdivision of such bhág or share, or for the seizure, sequestration, attachment or sale of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized subdivision thereof, it shall be lawful for the Collector or other chief revenue-officer of the district in which any such bhágdárí or narwádárí village is situated, although not a litigating party, to move in such Civil Court, that such process shall be set aside or quashed, and that the provisions of this Act be put in force;

Court to set aside process if case fall within Act.

and if such Court be of opinion, on the evidence adduced by the Collector or other chief revenue-officer of the district on such motion, that the case is one falling within this Act, it shall set aside or quash such process, and cause the provisions of this Act to be put in force; [b] any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

Bar to alienation, etc., of

3. It shall not be lawful to alienate, assign, mortgage or otherwise charge

[a] Words repealed by Act XII of 1873 are omitted.
[b] Words repealed by Act XII of 1876 are omitted.

any portion of bhág in bhágdárí village other than recognized subdivision thereof.

or incumber any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized subdivision of such bhág or share, or to alienate, assign, mortgage or otherwise charge or incumber any homestead, building-site (gabhán) or premises appurtenant or appendant to any such bhág or share or recognized subdivision, appurtenant or appendant thereto, apart or separately from any such bhág or share, or recognized subdivision thereof.

Power to remove person in possession of portion of such bhág.

Any alienation, assignment, mortgage, charge or incumbrance, contrary to the provisions of this section, shall be null and void; and it shall be lawful for the Collector or other chief revenue-officer of the district, whenever he shall, upon due inquiry, find that any person or persons is or are in possession of any portion of any bhág or share of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share in any bhágdárí or narwádárí village other than a recognized subdivision of such bhág or share, in violation of any of the provisions of this section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto;

Limitation of suit on Collector's order.

and any suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three [a] months after the execution of such order or orders.

Issue and execution of process in other respects authorized by law not barred.

4. [b] Nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any bhág or share, or recognized subdivision of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if the issue and execution of such process be in other respects authorized by law.

Alienation, etc., of bhág or share, as aforesaid, if in other respects warranted by law, not barred.

5. [b] Nothing in this Act contained shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any bhág or share, or recognized subdivision of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the object and intention of this Act being to prevent the dismemberment of bhágs or shares, or recognized subdivisions thereof, in bhágdárí or narwádárí villages, and also to prevent the severance of homesteads, building-sites (gabhán) or other premises, appurtenant or appendant to bhágs or shares, or recognized subdivisions of bhágs or shares, from the same or any of them.

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[a] The word repealed by Bom. Act III of 1886 is omitted.
[b] Words repealed by Act XII of 1873 are omitted.

BOMBAY ACT No. VI OF 1862.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.
2. After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.
3. Power to remove mortgagee or encumbrancer from possession of estates of táluqdár.
4. After declaration, táluqdár not liable to arrest in respect of debts other than debts due to Government.
5. During management, estates exempt from civil process in respect of debts and liabilities aforesaid.
6. Power to make and alter rules.
7. Managing officer to receive rents, profits and income; and pay for support of táluqdár and family, expenses of management; and settle debts and liabilities, in accordance with rules.
8. Managing officer to publish notice to claimants against táluqdár to notify claims.
   Publication of copies of notice.
9. Debt or liability not notified to be barred.
   Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.
10. Scheme for settlement of táluqdár's debts and liabilities.
    Amount of debt fixed in scheme not to be increased.
    Bar of debts disallowed.
11. Power to authorize raising of fund for settlement of debts and liabilities.
12. Debt or liability incurred by táluqdár during management not enforceable against estates.
    Incompetency of táluqdár to charge or alienate.
13. Civil Courts to give up writs, decrees, papers, etc., when required.
14. Power to officer to take evidence, and compel production of books, etc.
15. Powers of managing officer for realizing rents and profits.
16. Management limited to twenty years, and, at its expiration, claims, etc., to be considered settled.
17. Power to appoint new officers.
18. Powers for enforcing payment of fines.
19. Suits cognizable by Civil Courts.
    Indemnity to Crown, Government or managing officer.
20. Proprietorship of táluqdár after termination of management.
21. Interpretation-clause.

BOMBAY ACT No. VI OF 1862 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th October, 1862.*)

An Act for the amelioration of the condition of táluqdárs in the Ahmadabad Collectorate, and for their relief from debt.

Preamble.

WHEREAS the lands held in the zila of Ahmadabad in the Province of Gujarát under the title of táluqdárí estates are now only held on leasehold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the táluqdárs are in embarrassed circumstances and have borrowed money on the security of their landed estates; and whereas such of the said landed estates as are of the táluqdárí tenure aforesaid could not and cannot be lawfully charged, encumbered or alienated; and whereas it is expedient to enable the said táluqdárs to effect a settlement of their debts and liabilities; It is hereby enacted as follows:—

Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.

1. Whenever it shall appear to the Governor in Council that any táluqdár in the zila aforesaid is subject either personally or in respect of his landed estates of any description of tenure to debts or liabilities equal to or exceeding five times the average rents, profits and other annual income derived by the táluqdár from his estates aforesaid during the previous five years after deducting thereout the land-tax and other dues of Government, it shall be lawful for the Governor in Council to make a declaration [b] vesting the management of the said estates in an officer [c] or officers who shall then be appointed by the Governor in Council in that behalf, and the said declaration shall be published in the Bombay Government Gazette.

After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.

2. From and after the publication of said declaration as aforesaid, all suits or judicial proceedings for or in respect of debt or liabilities in the first section above-mentioned, other than debts due or liabilities incurred to the Crown or Government, pending before or under appeal from any of the Civil Courts in the said Presidency, shall be, and are hereby declared to be, permanently stayed, and no further prosecution thereof shall be permitted, and all writs, processes, executions or attachments for or in respect of such debts and liabilities shall forthwith cease and be raised.

Power to remove mortgagee or encumbrancer

3. From and after the publication of such declaration, the said officer or officers shall have power, without resorting to any Civil Court, to remove from

[a] As to the validity of Bom. Act VI of 1862, so far as it purports to affect the High Court of Judicature at Bombay, see Act XIV of 1877, s. 39, printed in Vol. I of this Code, p. 161.

[b] It is enacted in Bombay Act VI of 1888, s. 34 (printed in Vol. III of this Code), that no new declaration shall be made under s. 1 of Bom. Act VI of 1862 at any time after six months from the date on which the former Act came into force (*i.e.*, the 25th March, 1889).

[c] As to the investment of the Táluqdárí Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881, s. 7, with powers under this section, see Act XIV of 1877, s. 40 (*a*), printed in Vol. I of this Code, p. 161.

possession of the landed estates of the táluqdár of any description of tenure, or any part thereof, any mortgagee or other encumbrancer who may be in possession of the same, without prejudice to such mortgagee or encumbrancer bringing his claim under sections 8 and 9 before the officer or officers appointed for the management of the said estates.

from possession of estates of táluqdár.

4. From and after the publication of such declaration as aforesaid, the táluqdár, the subject of such declaration, shall not be liable to arrest, nor shall his personal estates of any description whatsoever be liable to seizure, attachment or sale under any process, decree, judgment or execution of the Civil Court of the Presidency of Bombay for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or Government.

After declaration, táluqdár not liable to arrest in respect of debts other than debts due to Government.

5. From and after the publication of such declaration as aforesaid, the landed estates of such táluqdár of any description of tenure and the rents, profits and income thereof shall, during the period of the management thereof by the said officer or officers, be wholly exempt from seizure, attachment or sale under or by virtue of any process, decree, judgment or execution of any Civil Court of the Presidency of Bombay for or in respect of the debts and liabilities aforesaid, other than debts due or liabilities incurred to the Crown or Government.

During management, estates exempt from civil process in respect of debts and liabilities aforesaid.

6. It shall be lawful for the Governor in Council to make rules for the purpose of carrying this Act into effect, and from time to time to alter, vary or amend such rules as necessity may arise.

Power to make and alter rules.

7. The said officer or officers shall, during the continuance of his or their management of the said estates, receive the whole of the rents, profits and income thereof, and shall defray thereout land-tax and other debts due or liabilities incurred, or hereafter respectively to grow due or to be incurred, to the Crown or Government, and pay to the táluqdár such annual sum only as shall appear to the Governor in Council requisite for the decent support of the táluqdár and his family, and any balance remaining after such payment as aforesaid shall be applied in discharge of the expenses of such management as aforesaid and in liquidation or settlement of the debts and liabilities to which at the time of the publication of the said declaration the táluqdár is subject either personally or in respect of his landed estates of any description of tenure, in accordance with the rules alluded to in the last preceding section.

Managing officer to receive rents, profits and income;

and pay for support of táluqdár and family,

expenses of management; and settle debts and liabilities, in accordance with rules.

8. The said officer or officers shall publish in the Bombay Government Gazette a notice in English and Gujaráthi, calling upon all persons having claims against the said táluqdárs or their said landed estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such

Managing officer to publish notice to claimants against táluq-

dár to notify claims.

officer or officers within three [a] months' time from the time of such notice in the Gazette, and the said officer or officers shall, before or contemporaneously with such publications in the Gazette, cause copies of such notice to be exhibited at the mámlatdárs' kachahrís in the said zila and in such place or places as to such officer or officers shall seem fit and as may be directed by the said rules.

Publication of copies of notice.

Debt or liability not notified to be barred.

9. Any debt or liability of the táluqdár other than as aforesaid, to which he is subject, either personally or in respect of the said landed estates, existing at the time of the said declaration by the Governor in Council not duly notified to the said officer or officers within the time and in the manner in the last preceding sections specified, shall and is hereby declared to be for ever barred:

Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.

Provided always that, upon proof being given to the satisfaction of such officer or officers of the inability of the claimant to have complied with the provisions of this and the last preceding sections, it shall be lawful for the said officer or officers to entertain and admit such claim within the further period of nine [a] months from the expiration of the above-mentioned period of three months.

Scheme for settlement of táluqdár's debts and liabilities.

10. The said officer or officers shall as early as possible prepare and submit to the Governor in Council a scheme for the settlement of the táluqdár's debts and liabilities, and such scheme, when approved by the Governor in Council, shall be carried into effect.

Amount of debt fixed in scheme not to be increased.

The amount of any debt or liability as fixed in such approved scheme shall not be liable to increase.

Bar of debts disallowed.

Any debt or liability disallowed by such officer or officers shall, if such disallowance be approved by Government, be and it is hereby declared to be for ever barred.

Power to authorize raising of fund for settlement of debts and liabilities.

11. It shall be lawful for the Governor in Council to empower the officer or officers aforesaid to raise a fund to be applied to the settlement of the debts and liabilities of the táluqdár by assigning the whole or a portion of his landed estates of any description of tenure to be held and enjoyed, for a period or periods not exceeding twenty years from the publication of the declaration aforesaid, by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said estates as may appear expedient; but in case of such sale the consent of the táluqdár and of his next heir, if the latter be of age, shall first be obtained.

[a] The word repealed by Bom. Act. III of 1886 is omitted.

12. Any debt or liability, except as hereinbefore excepted, which may be incurred by the táluqdár, either personally or in respect to his said landed estates or any part thereof, during the period of such management as aforesaid, shall not be enforceable in any manner whatever, either during or subsequently to such period of management, against his said landed estates or any part thereof, and it shall not be competent for the táluqdár during the said period of management to charge, encumber, sell or alienate his said landed estates or any part thereof, and such charge, encumbrance, sale or alienation shall be null and void.

Debt or liability incurred by táluqdár during management not enforceable against estates.

Incompetency of táluqdár to charge or alienate.

13. It shall be lawful for every officer or officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings filed in any of the suits mentioned in the second section of this Act, or relating to the debts or liabilities of any táluqdár whose landed estates are brought under such management as aforesaid, in the custody or control of any Civil Court, or in the custody or control of any Judges, Judge, Assistant Judge, officer or person connected with such Court, and upon notice being given in writing by such officer or officers to such Civil Court or to any Judges, Judge, Assistant Judge, officer or person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings in the said notice mentioned shall be immediately given up to the said officer or officers appointed under this Act, in the manner directed by the said notice, any act, usage or custom to the contrary in anywise notwithstanding.

Civil Courts to give up writs, decrees, papers, etc., when required.

14. It shall be lawful for any officer or officers appointed under this Act to summon witnesses and to take evidence, [a] and it shall also be lawful for the said officer or officers to compel the production of books, accounts, papers, deeds or other documents, and to inflict a fine not exceeding rupees one hundred for disobedience to any sanad or order made under this section.

Power to officer to take evidence, and compel production of books, etc.

15. The officer or officers appointed for the management of the landed estates of any táluqdár under this Act shall have, for the purpose of the realization and recovery of the rents, profits and income of such landed estates, the same powers as a Collector possesses under the Regulations or Acts now or hereafter in force for the realization and recovery of land-revenue due to Government.

Powers of managing officer for realizing rents and profits.

16. The management of the landed estates of any táluqdár by such officer or officers as aforesaid shall not extend beyond the period of twenty years, to

Management limited to twenty years,

[a] Words repealed by Act XII of 1876 are omitted.

and, at its expiration, claims, etc., to be considered settled.

be calculated from the first publication of such declaration as aforesaid in the Bombay Government Gazette, and at the expiration of such management, whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the táluqdár nor his heirs nor representatives, nor his, her nor their estates, whether moveable or immoveable, or any part thereof, shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Power to appoint new officers.

17. It shall be lawful for the Governor in Council from time to time to appoint new officers to carry this Act into effect, and all such officers shall have the same powers as the officer or officers first appointed.

Powers for enforcing payment of fines.

18. Officers appointed under this Act shall have the same powers for enforcing the payment of fines imposed under this Act as are given to Courts by section 386 of the Code of Criminal Procedure, 1882.[a] X of 1882.

Suits cognizable by Civil Courts.

19. Notwithstanding anything to the contrary in this Act, it shall be lawful for the Civil Courts to entertain and dispose of suits relating to the succession to, or rights of coparcenary in, or rights of persons claiming maintenance out of, any landed estate or estates brought under the operation of this Act:

Indemnity to Crown, Government or managing officer.

Provided always that neither the Crown nor Government, nor any officer or officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such officer or officers.

Proprietorship of táluqdár after termination of management.

20. From and after the expiration of the period of management of the estate of any táluqdár, whether such period extend to, or be less than, twenty years, the táluqdár shall be the absolute proprietor of his said landed estates as regards succession to and possession, management and transfer of, the same, subject to such land-tax as the Governor in Council may be pleased to reserve and all usual remedies for the recovery thereof.

Interpretation-clause.

21. [b] In this Act, [b] unless there be something in the subject or context repugnant to such construction, [b]—

(1) the term "Civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not.

(2) *and* (3) [*Repealed by Bom. Act III of 1886.*]

[a] The reference to s. 61 of Act XXV of 1861 is altered in accordance with Act X of 1872, Sch. V, and Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

[b] Words repealed by Bom. Act III of 1886 are omitted.

BOMBAY ACT No. I OF 1863.

CONTENTS.

PREAMBLE.
SECTIONS.
1. Vessels to be registered and marked with number, burthen and indication of place of registry.
2. Name, number, burthen, etc., to be registered.
3. Owner to apply for certificate of registry.
Renewal of lost certificate.
4. Fees for registration.
5. Production of certificate of registration.
6. Penalty for infringement.
7. Fees and fines aforesaid how applied.
8. Establishment of pilots and pilot-boats to be maintained.
9. Fees for vessels piloted.
10. Establishment at what places to be available.
11. Fees for vessels piloted through channels.
12. Penalty for non-payment of fees.
13. Expenditure of fees and fines realized.
14. Account to be kept of moneys received and expended.
15. Commissioner in Sindh to appoint and suspend persons and to make necessary rules.
16. [*Repealed.*]
17. Construction.
18. } [*Repealed.*]
19. }

BOMBAY ACT No. I OF 1863.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 2nd February, 1863.*)

An Act for the registry of vessels and levy of pilotage-fees on the river Indus.

WHEREAS it is expedient to provide for the registry of vessels plying on the river Indus and its tidal channels within the Province of Sindh, and for the establishment of competent pilots, and for the levying of fees in respect of the same; [a] It is enacted as follows :— Preamble.

1. Every vessel plying on the river Indus and its tidal channels within the Province of Sindh shall be registered by an officer appointed for the purpose, who shall be called the Registrar of boats, and every vessel so registered shall Vessels to be registered and marked with number, burthen and indi-

[a] Words repealed by Act XII of 1873 are omitted.

cation of place of registry.

be marked or branded with a number, the registered burthen and a letter or letters indicating the place of registry.

Name, number, burthen, etc., to be registered.

2. The name and number and burthen of every vessel plying as aforesaid, and the name of the owner thereof, shall be registered in a book kept for that purpose by the Registrar of boats; and whenever any change shall take place in the burthen of such vessel plying as aforesaid, or in the name or names of the owner thereof, such vessel shall be again registered.

Owner to apply for certificate of registry. Renewal of lost certificate.

3. The owner of every vessel plying as aforesaid shall apply to the Registrar of boats and obtain from him a certificate of registry as aforesaid; and, in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner, and on the payment of the fees hereinafter mentioned.

Fees for registration.

4. The owner of every vessel registered as aforesaid shall annually or otherwise pay such fees as the Governor in Council may, from time to time, direct by notification in the Government Gazette.

Production of certificate of registration.

5. The owner or person in charge of every vessel plying as aforesaid shall produce, when required by any public officer, the certificate of registry of such vessel.

Penalty for infringement.

6. In case any vessel plying as aforesaid shall not be registered, marked or branded, in all respects as hereinbefore directed, or

in case such vessel shall not be furnished with a proper certificate of registry, or

in case the owner or person in charge of such vessel shall not produce such certificate when required as aforesaid,

the owner or person in charge of such vessel shall, on conviction thereof before a Magistrate, [a] be liable to a fine not exceeding ten times the amount of the fees payable annually in respect of the registry of such vessel, which fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.

Fees and fines aforesaid how applied.

7. The sums realized from the fees and fines aforesaid shall be expended in removing obstructions from the channels of the river Indus, and in other ways improving the navigation of that river.

Establishment of pilots and pilot-boats to be maintained.

8. There shall be maintained such establishment of pilots and pilot-boats, near the mouths of the river Indus, as the Commissioner in Sindh may, from time to time, direct.

Fees for vessels piloted.

9. The person in charge of a vessel passing through any of the channels at the mouths of the river Indus shall pay to the officer duly authorized by the

[a] Words repealed by Bom. Act III of 1886 are omitted.

Registrar of boats, such fee as the Governor in Council may, from time to time, direct by notification in the Government Gazette, and in consideration of such payment shall receive the services of a pilot.

10. The establishment of pilots and pilot-boats shall, when necessary, be available at such place or places on the tidal channels between the port of Gizri and the river Indus as the Commissioner in Sindh may, from time to time, direct. Establishment at what places to be available.

11. The person in charge of a vessel passing through any of the tidal channels aforesaid shall pay to the officer duly authorized by the Registrar of boats, such fee as may, from time to time, be fixed under the provisions of section 9 [a], and in consideration of such payment shall receive the services of pilots. Fees for vessels piloted through channels.

12. In case the person in charge of such vessel as aforesaid shall refuse or neglect to pay the fee payable in respect of the pilotage of such vessels, such person shall, on conviction thereof before a Magistrate, [a] be liable to a fine not exceeding ten times the amount of the said fee; and such fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel. Penalty for non-payment of fees.

13. The sums realized from fees for pilotage and from fines for non-payment thereof shall be applied, under the orders of the Commissioner in Sindh, towards the maintenance of an establishment of pilots and pilot-boats, the erection and maintenance of beacons, and generally as may best conduce to the safe passage of vessels through the mouths and tidal channels of the river Indus. Expenditure of fees and fines realised.

14. An account shall be kept under the orders of the Commissioner in Sindh of all sums of money received and expended under the provisions of this Act; and a statement of the same shall be published every year in the Government Gazette. Account to be kept of moneys received and expended.

15. It shall be lawful for the Commissioner in Sindh, with the sanction of the Governor in Council, from time to time, to appoint such person or persons, and to suspend and remove the same, and to make such rules as may be necessary for carrying out the provisions of this Act: Provided that all such rules shall be notified in the Government Gazette. Commissioner in Sindh to appoint and suspend persons and to make necessary rules.

16. [*Indemnity.*] *Repealed by Act XII of 1873.*

17. A barge or flat towed by a steamer, and plying in no other manner, shall not for the purposes of this Act be considered a vessel. Construction.

18. [*Interpretation.*] *Repealed by Bombay Act III of 1886.*

19. [*Commencement.*] *Repealed by Act XII of 1873.*

[a] Words repealed by Bom. Act III of 1886 are omitted.

BOMBAY ACT No. II OF 1863.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to authorize and guarantee continuance in perpetuity of land to revenue-free holders on terms and conditions agreed to.
   Exceptions.
2. Such lands (subject to enactments in section 3) to be heritable and transferable property of holders and continued in perpetuity, subject to payment to Government of nazrána and quit-rent.
   Rules for ascertaining amount of assessment.
3. Adjustment, so far as right of Government to levy nazrána and quit-rent, binding on holder and rightful owner and assigns.
   Saving of rights and remedies of rightful owner, his heirs and assigns.
4. Such lands, so far as rights of Government concerned, to be recognized as heritable and transferable property of actual and legal successors by inheritance and heirs by adoption.
   Lands adjudicated to be heritable to be held subject to payment of additional nazrána.
   Proviso.
5. Provisions in respect of amount of nazrána when it exceeds ten rupees.
   Occasional nazrána.
   Proviso.
   Proviso
   Occasional nazrána from whom to be levied.
   Person obtaining possession to give notice to Collector, etc.
   Holder of land paying occasional nazrána to give notice to Collector, etc., of transfer.
6. Holders asserting right to exemption may claim trial of, and adjudication upon, their title according to Act XI of 1852.
   Effect of exemption being established.
   Effect of exemption not being established.
7. When holders demand trial and adjudication, security to be furnished.
   Refund of assessment with interest, if holder prove title.
   Full amount of land-revenue to be paid, if holder fail to prove title.
8. Lands held on behalf of religious or charitable institutions.
9. Power to invest officers with authority of Inám Commissioners and their assistants.
10. Burden of proof in cases under section 6.
11. Collector or other officer may serve notice on holder of lands, asking whether or not he demands enquiry under section 6.
    Language and form of notice.
    On whom to be served.
    Service on non-resident persons.
    Service when several persons hold lands jointly.

SECTIONS.

Service when holder known to reside in other Collectorate.
When no person acts for holder and holder cannot be found.
Inquiry when sufficiency of service of notice disputed.
Holder making no answer for two months, deemed to have dispensed with inquiry.
If no holder or owner discovered, land to be fully assessed.
Inquiry when sufficiency of answer to notice disputed.
After answer demanding inquiry, security to be taken.
Claim to be referred to officer.
Time to be fixed.
Claimant allowed benefit of evidence to be found in Government records in custody of such public officer.
12. [*Repealed.*]
13. Appeal from proceedings of officers making adjustment to be made to Governor in Council.
14. [*Repealed.*]
15. Quit-rents, nazranas, etc., how levied.
16. Interpretation-clause.

BOMBAY ACT No. II OF 1863 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 9th April, 1863.*)

An Act to facilitate the adjustment of unsettled claims to exemption from the payment of Government land-revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI of 1852 [b] of the Legislative Council of India.

Preamble.

WHEREAS it has been deemed expedient to provide for the final adjustment, summarily, of unsettled claims to exemption from the payment of land-revenue, and to fix the conditions which shall secure, in certain cases, the recognition of titles to such exemption with respect to succession and transfer in those districts of the Bombay Presidency to which the operation of Act XI of 1852 [b] of the Legislative Council of India extends; It is hereby enacted as follows :—

Power to authorize and guarantee

1. *Clause 1st.*—When the holders of lands in any of the said districts (except as is excepted in clause second of this section), held either wholly or partially

[a] As to the application of Bom. Act II of 1863, see Bom. Act V of 1879, s. 127, *infra*, and, where that Act is not in force, see Bom. Act IV of 1868.
[b] Printed in Vol. I of this Code, p. 60.

continuance in perpetuity of land to revenue-free holders on terms and conditions agreed to.

exempt from the payment of Government land-revenue, whose title to exemption has not yet been formally adjudicated, shall have consented to submit to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms and subject to the said conditions.

Exceptions.

Clause 2nd.—The excepted cases to which the authority of adjustment and guarantee, vested in the Governor in Council by this provision, shall not extend, are the cases of lands held as follows:—

1st, lands held under treaty:

2nd, lands granted or held as jágírs or saranjáms, or on similar political tenure:

3rd, lands held for service:

4th, lands already formally adjudicated to be not continuable hereditary.

Such lands (subject to enactments in section 3) to be heritable and transferable property of holders and continued in perpetuity, subject to payment to Government of nazrána and quit-rent.

2. When the Governor in Council shall have finally authorized and guaranteed the continuance, in perpetuity, to the holders, their heirs and assigns, of lands wholly or partially exempt from the ordinary payment of annual land-revenue, whose title to exemption has not already been formally adjudicated and who have dispensed with an inquiry into such title, the said lands shall (subject to the enactments contained in section 3 [a]) be the heritable and transferable property of the said holders, their heirs and assigns, without restriction, as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in prepetuity, subject to an annual payment to Government. Such payment shall consist of—

1st, a fixed annual payment as nazrána, in commutation of all claims of Government in respect of succession and transfer, and shall be calculated at the rate of one anna for each rupee of assessment:

2nd, of a quit-rent equal to one-fourth of the assessment.

Rules for ascertaining amount of assessment.

The said assessment shall be ascertainable under the following rules:—

Rule I.—The assessment of lands other than those specified in Rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and with respect to lands which have not yet been assessed by that revenue-survey shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands which shall be final;

[a] Words repealed by Bom. Act III of 1886 are omitted.

and, in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not heretofore assessed by such revenue-survey for the purpose of fixing and making an assessment thereof, provided no arrangement can be otherwise arrived at by the Collector and the owner or holder, as above provided, to ascertain the fair rental of the lands.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey rules shall be in the discretion of the revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a júdí, sálámí or other quit-rent or land-tax, under whatever denomination, is alrealy paid to Government, instead of being liable to only one-fourth of the assessment, shall, in addition to the annual amount of such júdí, salámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent, equal to one-fourth of the sum by which the annual or average annual amount of such júdí, salámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent and annual nazrána imposed under this section (section 2) and the rules thereunto annexed shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save so far as is above in rule 1 of this section (section 2) provided to the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder shall be continued according to the provisions of this section (section 2) and the rules thereunto annexed, and subject to the enactments contained in section 3.

3. Any adjustment made by the Governor in Council with the holder of Adjustment,

so far as right of Government to levy nazrána and quit-rent, binding on holder and rightful owner and assigns.

land held wholly or partially exempt from the payment of land-revenue, in accordance with section 2 [a] and the rules annexed to the said section, shall, so far as the right of Government to levy the nazrána and the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be :

Saving of rights and remedies of rightful owner, his heirs and assigns.

Provided always that the said rightful owner, his heirs and assigns, shall not, by this Act or anything therein contained, be deprived of any rights or remedies [b] to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof if this Act had not been passed ;

and in the event of the rightful owner, his heirs or assigns, recovering the said lands or any part thereof, from the said h older, his heirs or assigns, any declaration, guarantee or adjustment made by the Governor in Council under, or in accordance with, sections 1 and 2 [a] and the rules annexed to the said section 2 with respect to the said lands while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

Such lands, so far as rights of Government concerned, to be recognized as heritable and transferable property of actual and legal successors by inheritance and heirs by adoption.

4. Lands held partially or wholly exempt from the payment of land-revenue, and already formally adjudicated to be so continuable hereditarily in perpetuity, may at the option of the holder be henceforth recognized, so far as the rights of Government are concerned, as the heritable and also the transferable property, not only of the actual descendants of the person to whose descendants inheritance may have been limited by the terms of the said adjudication, but also of all his legal successors by inheritance, including heirs by collateral successions and heirs by adoption, and their assigns ;

and thereafter the right of Government or its officers to question the title to possession, or to exemption from the payment of land-revenue, of any holder of the said land already so adjudicated to be heritable in perpetuity, on the ground that he does not belong to the family to which title is restricted by the adjudication, is hereby abrogated ;

Lands adjudicated to be heritable to be held subject to payment of additional nazrána.

and, in any case of recognition as in this section aforesaid, lands already adjudicated to be heritable, and to which such recognition applies, are henceforth to be held subject to the payment to Government of an annual nazrána, calculated at the rate of one anna for each rupee of the assessment of the land, ascertainable as provided in the rules of section 2 [a], which nazrána is to

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Words repealed by Act XII of 1876 are omitted.

be in addition to the partial assessment (if any) ordered by the terms of the formal adjudication under which the land has already been declared to be continuable:

Provided, however, that the assent of the holder of all lands adjudicated as aforesaid to the acceptance of such recognition and the payment of such nazrána as in this section as aforesaid shall be assumed, unless such holders shall within three (3) [a] months from the date on which this Act comes into operation decline to accept such recognition as aforesaid by a notice given in writing to the Collector of the district. Proviso.

5. *Clause 1st.*—When the amount of the annual nazrána payable for any holding in accordance with section 2 or section 4 [a] respectively exceeds the sum of ten rupees, it shall be at the option of the holder of the land on account of which the said nazrána is declared payable, if he be not merely a mortgagee, to elect within two [a] months after service of a notice explaining the purport and effect of the rules contained in this section (section 5), which service shall be made in the same manner as is hereinafter provided for the service of the notice described in section 11 [a] that in lieu of the land being made subject to the payment of such annual nazrána, an occasional nazrána shall be payable at each change of possession thereof, or of any part thereof, by inheritance or transfer, the amount of which nazrána shall be— Provisions in respect of amount of nazrána when it exceeds ten rupees. Occasional nazrána.

(*a*) on every succession by inheritance, a nazrána equal to one year's assessment of the wholly or partially exempt lands which are the subject of such succession:

(*b*) on every transfer of lands wholly or partially exempt from the payment of land-revenue, a nazrána equal to two years' assessment of the land transferred.

The asessment shall be, in each case, ascertainable under the rules annexed to section 2 [a]:

Provided that, in the event of more than one succession or transfer occurring within twelve months, such occasional nazrána on [b] succession or transfer shall not be leviable more than once: Proviso.

Provided also that it shall be at the option of the holder of the land to pay such occasional nazrána in one sum or by annual instalments not exceeding one-fourth of the whole nazrána per annum. Proviso.

Clause 2nd.—When, at the election of the holder, lands wholly or partially exempt from the payment of land-revenue shall have been made liable to Occasional nazrána from whom to be levied.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] "On" was substituted for "or" by Act XVI of 1895.

occasional nazrána leviable under this section (section 5), instead of to an annual nazrána of one anna in each rupee of the assessment as provided by sections 2 and 4 [a], the occasional nazrána shall be levied from each person obtaining possession of the land to which it is subject, whether by inheritance or transfer;

Person obtaining possession to give notice to Collector, etc.

and it shall be the duty of that person, within the period of one [a] month after obtaining possession as aforesaid, to give notice in writing thereof to the Collector or other chief revenue-officer of the [a] district in which the said lands are situate; and, in default of such notice, the person so obtaining possession shall forfeit, in addition to the nazrána leviable on the occasion, a sum equal to the amount thereof.

Holder of land paying occasional nazrána to give notice to Collector, etc., of transfer.

Clause 3rd.—It shall also be the duty of the holder of any land made subject under this section to the payment of occasional nazrána instead of to an annual nazrána of one anna in each rupee of the assessment, who shall transfer the same or any part thereof, to give to the Collector or chief revenue-officer of the [a] district in which the lands so transferred are situate, notice in writing of such transfer, and of the nature and extent thereof, and of the person or persons to whom the same is made, within one [a] month after such transfer has been made; and, in default of such notice, the person or persons so transferring as aforesaid shall forfeit a sum equal to the amount of the nazrána leviable on the occasion from the person to whom the transfer shall have been made.

Holders asserting right to exemption may claim trial of, and adjudication upon, their title according to Act XI of 1852.

6. *Clause 1st.*—When lands are held wholly or partially exempt from the payment of land-revenue, upon the title to which exemption there has not been any formal adjudication, the holders asserting a right to such exemption shall be at liberty, on the conditions hereinafter described, to claim a trial of, and adjudication upon, their title, according to Act XI of 1852,[b] so far as the same is not altered, modified or superseded by, or inconsistent with, the provisions of this Act.

Effect of exemption being established.

Clause 2nd.—In the event of the title to such exemption being upon such inquiry demanded as last aforesaid duly established, the land shall not be heritable in any other manner, or to any further extent than the same may, on such inquiry as last aforesaid, be adjudged to be heritable; nor shall any adoption be recognised in any Civil Court[c], or by any officer of Government, as creative of, or continuing, a title to claim from Government any exemption from assessment or any other privilege on account of the said lands; and no

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Printed in Vol. I of this Code, p. 60.
[c] Words repealed by Act XII of 1876 are omitted.

nazrána shall be received on account of Government from the holders of such lands.

And whensoever the same lands or any part thereof, either by operation of law, or by devolution, assignment, gift, sale (whether such sale be judicial, public or private), devise, transfer-deed or other instrument, or otherwise howsoever, pass to any person, not an heir by actual descent from the person to whose heirs the lands shall be declared heritable, or, in default of such declaration, from the person who may establish his title to exemption as last aforesaid, then the said lands, or such part thereof as may have so passed to any person other than the said actual descendants, shall forthwith become and be liable to payment of annual land-revenue at the full assessment.

Effect of exemption not being established.

Clause 3rd.—In the event, upon such enquiry as aforesaid, of there being a failure by the holders to establish title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment.

When holders demand trial and adjudication, security to be furnished.

7. *Clause 1st.*—When the holders of land, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 6 [a], they shall be required to furnish satisfactory security for the payment of the assessment of the land, in case of their failure to prove the title to exemption asserted by them; and, in default of their furnishing such satisfactory security, the full assessment of the land which is to be the subject of inquiry shall be levied pending the adjudication.

Refund of assessment with interest, if holder prove title.

Clause 2nd.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of any assessment levied under the provisions of this section, pending such inquiry as aforesaid, and to interest thereon at the rate of five per cent. per annum.

Full amount of land-revenue to be paid, if holder fail to prove title.

Clause 3rd.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date of the holder's demand for trial shall be levied from the said holder and his security, or either, any sums levied pending adjudication as aforesaid being taken in account of the same.

Lands held on behalf of religious or charitable institutions.

8. *Clause 1st.*—Lands held wholly or partially exempt from the payment of land-revenue on behalf of religious or charitable institutions shall, if already formally adjudicated to be permanently so continuable, be so continued wholly or partially exempt from such payment of land-revenue as aforesaid, according to the terms of the adjudication.

[a] Words repealed by Bom. Act III of 1886 are omitted.

Clause 2nd.—Lands held on behalf of religious or charitable institutions, either wholly or partially exempt from the payment of land-revenue, shall, if not already formally adjudicated to be permanently so continuable, be declared to be so wholly or partially exempt from such payment of land-revenue as aforesaid; subject, however, to the payment of annual quit-rent equal to one-fourth of the assessment, which shall be ascertainable under the rules annexed to section 2 [a].

Clause 3rd.—It is, however, hereby declared that lands held on behalf of religious or charitable institutions, wholly or partially exempt from the payment of land-revenue, shall not be transferable from such institutions either by assignment, sale (whether such sale be judicial, public or private), gift, devise or otherwise howsoever, and no nazrána shall be leviable on account of such lands.

Clause 4th.—If the holders, managers or trustees of such lands shall refuse to accept the terms provided by clause 2 of this section, and shall demand a trial and adjudication of the title by which the land is held wholly or partially exempt from land-revenue, they shall be entitled to the same, on the conditions described in section 7 and subject to the liabilities provided in section 6 [a].

Power to invest officers with authority of Inám Commissioners and their assistants.

9. It shall be lawful for the Governor in Council to appoint officers to carry out the inquiries provided for in this Act in the districts in which Act XI of 1852 [b] has the force of law, and to invest any officer so appointed with the authority conferred by the above Act on Inám Commissioners and Assistant Inám Commissioners.

Burden of proof in cases of enquiries under section 6.

10. Whensoever any person or persons, holding lands wholly or partially exempt from the payment of land-revenue, upon the title to which exemption there has not been any formal adjudication, shall (whether such alleged title be founded on grant or prescription, or on any other ground whatsoever) demand an inquiry under section 6 [a] into such title, the burden of proof of such title shall, in every instance, lie and be cast exclusively upon the person or persons holding, or claiming to hold, such lands so wholly or partially exempt from the payment of land-revenue as aforesaid, notwithstanding any existing usage, law, Regulation, Act or Statute in anywise to the contrary;

and it shall not be lawful for any Civil Court [c] to place the burden of proof upon Government, or upon the officer or officers representing Govern-

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Printed in Vol. I of this Code, p. 60.
[c] Words repealed by Act XII of 1876 are omitted.

ment, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid, and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided that nothing in this section contained shall disentitle Government, or its duly authorized officers, to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government, or its duly authorized officers, desirable or necessary to produce and give such evidence.

Collector or other officer may serve notice on holder of lands, asking whether or not he demands inquiry under section 6.

11. *Clause 1st.*—It shall be lawful for the Collector of each [a] district, or for any other officer of Government duly authorized in that behalf, whensoever such Collector or such other officer shall have reason to believe that lands are held wholly or partially exempt from payment of land-revenue, and that there has not been any formal adjudication upon the title to such exemption, to serve, or to cause to be served, a notice in writing, upon the holder of such lands, calling upon him to state whether or not he demands an inquiry under section 6 [a] into such alleged title to exemption as aforesaid, instead of accepting and abiding by the terms described in section 2 [b].

Language and form of notice.

Clause 2nd.—The notice shall be in the prevailing language of the [a] district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

On whom to be served.

Clause 3rd.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the district [c].

Service on non-resident persons.

Clause 4th.—If such persons as last aforesaid be not resident within the district [d], the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when several persons hold lands jointly.

Clause 5th.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when holder known to reside in other Collectorate.

Clause 6th.—If the holder be known to reside in another district [d] of the Bombay Presidency, and if there be no person acting for him in the district [d] in which the lands are situate, the notice shall be sent to the

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Words repealed by Act XVI of 1895 are omitted.
[c] "District" was substituted for "collectorate" by Act XVI of 1895.
[d] "District" was substituted for "collectorate" by Bom. Act III of 1886.

Collector of such other district [a] and served or caused to be served by him.

When no person acts for holder and holder cannot be found.

Clause 7th.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any), and a copy of such notice shall be posted in the office of the chief Native revenue-officer of the district, and in the chauri or most public place in the village where the lands are situate.

Inquiry when sufficiency of service of notice disputed.

Clause 8th.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, the matter so in dispute shall be inquired into by the Collector of the district or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [b] or elsewhere.

Holder making no answer for two months, deemed to have dispensed with inquiry.

Clause 9th.—If, within two [c] months after the service of such notice in manner aforesaid, the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands, if held as aforesaid by an individual or individuals, shall be dealt with under sections 1 and 2 [c] and the rules annexed to said section 2, and, if held on behalf of religious or charitable institutions, shall be dealt with under clause 2 of section 8 [c].

If no holder or owner discovered, land to be fully assessed.

But, if no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall, within the law of limitations, appear and prove his title to it.

Inquiry when sufficiency of answer to notice disputed.

Clause 10th.—In the event of any dispute arising as to the sufficiency of any such answer as last aforesaid, or as to its meaning, or as to its having been given within the time required by this Act, the matter so in dispute shall be inquired into by the Collector or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [b] or elsewhere.

After answer demanding inquiry, secu-

Clause 11th.—Whensoever an answer in writing is given by any holder or his agent demanding an inquiry under section 6 or clause 4 of section 8 [c],

[a] "District" was substituted for "collectorate" by Bom. Act III of 1886.
[b] Words repealed by Act XII of 1876 are omitted.
[c] Words repealed by Bom. Act III of 1886 are omitted.

the Collector or other officer to whom such answer has been given shall take the security required in such cases by section 7 [a], or, in default of the same being furnished, shall take such steps as shall be necessary for levying the full assessment of the land as required by the said section, and shall refer the holder's claim to the officer appointed by Government for the trial of such matters, who shall, with reasonable regard to the public convenience, and to the convenience of all persons interested or to be engaged in conducting such inquiry, fix a time at which it shall be proceeded with.

rity to be taken.

Claim to be referred to officer.

Time to be fixed.

Clause 12th.—Any claimant demanding an inquiry into his title shall be allowed the benefit or any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the British Government to have charge or custody of the same, and such public officer shall be bound to search for and to produce the same on application made to him.

Claimant allowed benefit of evidence to be found in Government records in custody of such public officer.

12. [*Validation of prior notices, orders and settlements.*] *Repealed by Act XVI of 1895.*

13. When any adjustment of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government, under the second, fifth or eighth sections [b], any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such adjustment shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be recognizable by any other authority.

Appeal from proceedings of officers making adjustment to be made to Governor in Council.

14. [*Bar of suits against Government officers.*] *Repealed by Act X of 1876.*

15. All quit-rents, nazránas, succession-duties, transfer-duties and forfeitures, payable under this Act, shall be levied in the manner in which ordinary land-revenue is now recoverable, and the claim of Government to such quit-rents and nazránas, and to all forfeitures provided by this Act, shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment or otherwise howsoever, against the lands, or the holder or holders thereof.

Quit-rents, nazránas, etc., how levied.

16. (*A*) [*Number and gender.*] *Repealed by Bom. Act III of 1886.*

Interpretation-clause.

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description:

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government:

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Words repealed by Act X of 1876 and Bom. Act III of 1886 are omitted.

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service, and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act, as to whether or not any lands are lands held for service:

(*E*) formal adjudication shall be held to mean final adjudication under any Regulation of the Bombay Government, or under Act XI of 1852,[a] in cases to which the same were applicable, and in other cases final adjudication after inquiry by the British Government or some authorized officer thereof:

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who by himself, his tenants, sub-tenants or agents is in possession of the land held wholly or partially exempt from land-revenue assessment, and shall include a mortgagee in possession as aforesaid:

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

BOMBAY ACT No. III OF 1863[b].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th April, 1863.*)

An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Satára, certain villages and lapsed States in the collectorate of Sholápur and in the Southern Marátha Country, [c] and for excluding the village of Muchandi, pargana Játh, from the operation of the Regulations and Acts of the Presidency of Bombay.

Preamble. WHEREAS it is expedient for the better administration of justice in the

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[a] Printed in Vol. I of this Code, p. 60.

[b] So much of Bom. Act III of 1863 as related to the following villages, namely:—
the Sánglíkar's village of Dorli in Karyát, Sávarda;
the Sánglíkar's village of Borgaon in Karyát Digráj;
the Mirajkar's village of Dupat Bargaon in Karyát Dudgaon;
the village of Sangam Máhuli, Taraf Vandan, belonging to the Pant Pratinidhi;
the village of Kinhi, Sammat Koreygaon, belonging to the Pant Pratinidhi,
was repealed by Act IV of 1868.

[c] Portion repealed by Act XVI of 1895 is omitted.

territory of Satára that the collectorate should be brought under the Regulations and Acts of the Presidency of Bombay;

and whereas certain villages which now belong to Government in Sholápur and the Southern Marátha Country have not yet been made subject to the operation of the general Regulations and Acts affecting the Bombay Presidency [a];

and whereas the village of Muchandi, pargana Játh, in the territory of Satára, was inadvertently included in Act VI of 1842[b], by which certain villages in the Southern Marátha Country were brought under the operation of the Regulations and Acts of the Presidency of Bombay;

It is hereby enacted as follows :—

1. The villages in the collectorate of Satára as described in Schedule A[c] shall, from and after the first day of January, 1863, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

Villages in Sátára rendered subject to Bombay laws.

2. The villages in the collectorate of Sholápur and in the Southern Marátha Country described in Schedule B [c] shall, from and after the passing of this Act, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

Villages in Sholápur and in Southern Márátha Country rendered subject to Bombay laws.

3. [*Bar of jurisdiction of Civil Courts in certain cases.*] *Repealed by Act X of 1876.*

4. *Clause 1st.*—It is also further enacted that the privileges and exemptions provided in sections 3, 4 and 5, Regulation XXIX, A.D. 1827[d], and section 5 of Regulation VII, A.D. 1830[d], and Regulations I[d] and XVI[d], A.D. 1831, as amended by section 6, Act XIII of 1842[e], are equally applicable in the districts now brought under the Regulations and Acts to the persons of rank therein referred to, as they are in the Dekkhan, Khándesh and Southern Marátha Country.

Privileges and exemptions of certain persons of rank.

Clause 2nd.—[*Process against Shrímant Sagunábái Ái Sáheb Mahárájj.*] *Repealed by Act XVI of 1895.*

5, 6, 7. [*Railway lands; North Kanára; saving of prior proceedings.*] *Repealed by Act XV of 1874.*

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[a] Portion repealed by Act XVI of 1895 is omitted.
[b] Act VI of 1842 was repealed by Act XV of 1874.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d] Printed in Vol. I of this Code.
[e] Act XIII of 1842 is not republished, having been repealed locally by Bom. Act V of 1879.

(*Sec. 8.*)

(*Schedule A.*)

Village of Muchandi excluded from operation of Regulations and Acts.

8. The village of Muchandi, pargana Játh, in the territory of Satára, included in Act VI of 1842[a], by which certain villages in the Southern Marátha Country were brought under the Regulations and Acts of the Presidency of Bombay, shall, from and after the passing of this Act, be excluded from the operation of the Regulations and Acts of the Presidency of Bombay, anything in the said Act VI of 1842 [a] to the contrary in anywise notwithstanding.

SCHEDULE A.

LIST OF THE PARGANAS, TARAFS AND OTHER KNOWN DIVISIONS OF THE COLLECTORATE OF SATÁRA TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

Consecutive numbers.	Names of the division.
1	Taraf Satára.
2	Taraf Parli.
3	*Taraf Vandan*[b].
4	Taraf Tárgaon, with the exception of the village Vátár entered in the accounts as belonging to the Chief of Jamkhandi.
5	Taraf Umraj, with exception of the following two villages :— (1) Korti, entered in the accounts as belonging to the Pant Pratinidhi. (2) Sirvada, entered in the accounts as belonging to the Chief of Jamkhandi.
6	Sammat Nimb.
7	Taraf Medha.
8	Taraf Kedamb.
9	Taraf Bárámura.
10	Taraf Kudál.
11	Taraf Ategaon.
12	Taraf Bámnoli.
13	Taraf Solsa.
14	Taraf Támb.
15	Karyát Náneghola.
16	Taraf Tárla.
17	Karyát Talbid.

[a] Act VI of 1842 was repealed by Act XV of 1874.
[b] As to the village of Sangam Máhuli, Taraf Vandan, see foot-note [b] on p. 28. *supra.*

(*Schedule A.*)

Consecutive numbers.	Names of the division.
18	Taraf Haveli Karád, with the exception of the following twelve villages :—
	(1) Saidápur. (2) Kápil. (3) Pádli. (4) Belavda Varghát. (5) Dushera. (6) Gondi. (7) Ghonshi. (8) Kodoli. (9) Virvada. (10) Bichúd. (11) Manu. — entered in the accounts as belonging to the Pant Pratinidhi. (12) Retra Khurd. — ditto to Sánglíkar Patvardhan.
19	Taraf Marli.
20	Taraf Pátan.
21	Taraf Helvák.
22	Karyát Káshígaon.
23	Taraf Kola.
24	Fort [a] Sadáshivgad, Vasantgad and Manchindragad.
25	Karyát Ashta.
26	Taraf Khatáv.
27	Taraf Malavdi.
28	Taraf Dahigaon.
29	Taraf Mhasvad.
30	Taraf Lalgaon.
31	Forts of Machimángad, Várugad and Vardhángad.
32	Taraf Dharmpuri.
33	Karyát Khánápur.
34	Karyát Máyni.
35	Karyát Vángi.
36	Karyát Vita.
37	Karyát Bhálavni.
38	Karyát Nimsod.

[a] *Sic.*

Consecutive numbers.	Names of the division.
39	Fort of Bhushangad.
40	Pargana Kásegaon, Táluka Pandharpur.
41	Pargana Brahmpuri, Táluka Pandharpur.
42	Pargana Sángola.
43	Pargana Gherdi.
44	Pargana Názra.
45	Pargana Aklúj.
46	Pargana Velápur.
47	Pargana Bhálavni, with the exception of the following five villages, entered in the accounts as belonging to the Chief of Akalkot: (1) Piliv. (2) Shenda Chinch. (3) Shingorni. (4) Dhánora. (5) Kusmáda.
48	Taraf Haveli Wái.
49	Taraf Jor Khora.
50	*Sammat Koreygaon.* [a]
51	Sammat Vágholi.
52	Pargana Molvád.
	The parts of the following parganas, situated in the collectorate of Satára:
53	Pargana Bejápur.
54	Pargana Gota.
55	Pargana Baloti.
56	Pargana Sidhnáth.
57	Pargana Mamdápur.
58	Pargana Chimalgi.
59	Pargana Kolhár.
60	Pargana Honvad.
61	Pargana Bárdoli.
62	Pargana Shirála, with the exception of the village of Vátegaon, entered in the accounts as belonging to Chief of Kurundvád.
63	Pargana Átpádi, with the exception of the village Vitlápur, entered in the accounts as belonging to the Pant Pratinidhi.

[a] As to the village of Kinhi, Sammat Koreygaon, see foot-note [b] on p. 28, *supra*.

(*Schedule A.*)

Consecutive numbers.	Names of the division.
64	Pargana Mangalvedha.
65	Pargana Shirval, with the exception of the following villages, entered in the accounts as belonging to the Pant Sachiv :—
	(1) Shirval.
	(2) Bávda.
	(3) Kesurdi.
	(4) Párgaon.
	(5) Tondla.
	(6) Sángvi.
	(7) Bháda.
	(8) Rui.
	(9) Yelka.
	(10) Kavtha.
	(11) Bhádavda.
	The parts of the following tarafs, situated in the collectorate of Satára :—
66	Taraf Sávarda.
67	Taraf Chiplúm.
68	Taraf Válva, situated within the Satára territory, with the exception of the village Kundal, entered in the accounts as belonging to the Pant Pratinidhi.
69	Taraf Várún.
70	Taraf Phaltan, excepting the villages of Dálvadi and Vákri, entered in the accounts as belonging to the Chief of Phaltan.
71	Taraf Velvand Khora.
72	Taraf Rohidkhora, with the exception of the village Hátnoshi, entered in the accounts as belonging to the Pant Sachiv.
73	Taraf Nírthadi, with the exception of the village Mirja, entered in the accounts as belonging to the Pant Sachiv.
	The parts of the following Karyáts, situated within the collectorate of Satára :—
74	Karyát Báji.
75	Do. Vadgaon.
76	Do. Haveli Kolhápur.
77	Do. Kodoli.

Consecutive numbers.	Names of the division.
78	Karyát Sátva.
79	Do. Bhilavdi, with the exception of the following four villages:—
	(1) Nágrála,
	(2) Bábvada,
	(3) Ghogaon, and
	(4) Tupári, entered in the accounts as belonging to the Chief of Sángli.
80	Karyát Sángli.
81	Karyát Dudhgaon, with the exception of Bhad Kinba, entered in the accounts as belonging to Sánglíkar Patvardhan.
82	Karyát Aundh, with the exception of the following eight villages:—
	(1) Rámápur } entered in the accounts as belonging to the Pant Pratinidhi.
	(2) Vyáháp ur }
	(3) Saukira }
	(4) Párgaon }
	(5) Sirasgaon }
	(6) Chikhalvohol }
	(7) Aundh }
	(8) Karla ditto as belonging to the Chief of Akalkot.
83	Karyát Tásgaon.
84	Do. Visapur, with the exception of the following four villages, entered in the accounts as belonging to the Chief of Sángli:—
	(1) Álta.
	(2) Sirgaon.
	(3) Nimb.
	(4) Audhali.
85	Karyát Anjni.
86	Do. Ráybag.
87	That part of Pránt Panhála situated within the collectorate of Satára.

SCHEDULE B.

LIST of VILLAGES IN THE COLLECTORATE of SHOLÁPUR TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

1. All the villages of pargana Karkamb, táluqá Mádha, situated in the collectorate of Sholápur, and not brought under the Regulations by Regulation XXIX of 1827 [a], namely :—

(1) Maujé Pehnúr.
(2) „ Bhend.
(3) „ Bhatumbrá.
(4) „ Yevti.
(5) „ Akumba.
(6) „ Bembla.
(7) „ Támbva, and
(8) Kasba Karkamb.

2. All the villages of the Naldurg pargana, táluqá Sholápur, situated in the collectorate of Sholápur, remaining to be brought under the Regulations and not entered in Act VI of 1842[b], namely :—

Maujé Tadvála.

3. All the villages of the Chánd Kavtha pargana, táluqá Hippargi, situated in the collectorate of Sholápur, not brought under the Regulations by Act VI of 1842[b], namely :—

Maujé Ankalgi.

4. The whole of pargana Chimalgi, táluqá Mangoli, not brought under the Regulations by Regulation XXIX of 1827[a], namely :—

(1) Kasba Chimalgi.
(2) Maujé Almati.
(3) „ Vandal.
(4) „ Biraldini.
(5) „ Budni.
(6) „ Hunshál.
(7) „ Nágvád.
(8) „ Akalvádi.
(9) „ Arsangi.
(10) „ Benál.
(11) Angadgiri.

[a] Printed in Vol. I of this Code, p. 29.
[b] Act VI of 1842 was repealed by Act XV of 1874.

(12) Maujé Hangargi.
(13) „ Uni Bhávi, and
(14) „ Gudhini.

All the villages of the Nidgundi pargana not brought under the Regulations by Regulation VII of 1830[a] and Act VI of 1842[b] :—

(1) Areshankar.
(2) Vadvadgi.

LIST OF VILLAGES IN THE SOUTHERN MARÁTHA COUNTRY TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

1. The following villages in taraf Mugal Khod :—

Maujé Gundevádi.
„ Dharúr.
„ Siddápur.
„ Kolijúd.
„ Yebarhatti.
„ Hárogeri.
„ Hídkal.
„ Mugal Khod.
„ Pálbhávi.
„ Kappalgudi.
„ Hallúr.
„ Sivápur.
„ Khán Náikinhatti.
„ Mudalgi.
„ Munál.

2. The following villages in Pránt Miraj :—

(1) Maujé Soni } Karyát Mané.
(2) „ Bhos } Rájuri.
(3) „ Bisúr } Karyát Sángli.
(4) „ Kúpváda }
(5) „ Haroli, Karyát Dessing.
(6) „ Yerandoli } Karyát Bedag.
(7) „ Belavki }
(8) „ Árvandé, Karyát Sávardé.
(9) „ Vadgaon, Karyát Anjni.
(10) „ Kalombi, Karyát Haveli.
(11) „ Shedshál, Karyát Shirhatti.

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[a] Printed in Vol. I of this Code, p. 37.
[b] Act VI of 1842 was repealed by Act XV of 1874.

(*Schedule B.*)

(12) Maujé Pándegaon, Karyát Kavtha Mahánkál.
(13) „ Kasba Tásgaon
(14) „ Maujé Turchi
(15) „ Pádli
(16) „ Bhilavdi
} Karyát Tásgaon.
(17) „ Vasgada, Káryat Kavtha.
(18) „ Nimni.

3. The following villages in Pránt Kágal :—
(1) Maujé Ankli, Karyát Mánjri.
(2) „ Burli, Karyát Digraj.

4. The following villages in Pránt Ráybág.
(1) Kasba Ainápur, Karyát Ainápur.
(2) Maujé Hatnoli, Karyát Nándura.

5. The following village in Pránt Hukeri :—
(1) Maujé Mangávatti, Karyát Jugal.

6. The following villages in Pránt Bijápur :—
(1) Maujé Shirhatti
(2) „ Nágnúr
(3) „ Ratnápur
(4) „ Shivdi
(5) „ Haliyál
} Karyát Kokatnúr.

The following village in pargana Kokatnúr :—
(1) Maujé Mhaisvádgi.

7. Pargana Yádvád with the exception of the three following villages :—
(1) Aurvád,
(2) Kalligudi,
(3) Chippalkatti,

entered in the accounts as belonging to the Chief of Jamkhandi.

8. Karyát Kinní.

9. The following village in taraf Kánnúr :—
(1) Maujé Chikk Tarsi, Karyát Kánnúr.

10. The following village in pargana Sháhápur :—
(1) Ashta.

11. The following villages in Karyát Sávarda :—
(1) Kasba Sávarda.
(2) Maujé Londa.
(3) „ *Dorli*[a].

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[a] As to the village Dorli, see foot-note [b] on p. 28, *supra*.

12. The following villages in taraf Phutgaon :—
    (1) Kasba Sávlaj.
    (2) Maujé Dongarsáni.
    (3) „ Karavli.
13. The following village in taraf Tásgaon :—
    (1) Maujé Punada.
14. *The following village in Karyát Dudhgaon :—*
    (1) *Maujé Borgaon*[a].
15. *The following village in Karyát Digráj :—*
    (1) *Maujé Borgaon*[a].
16. The following village in Pránt Karád :—
    (1) Maujé Yelávi.
17. The following village in Karyát Uchgaon :—
    (1) Maujé Belgundi.
18. The following village in Karyát Kágti :—
    (1) Maujé Kangráli Khurd.
19. The following village in taraf Sámbra :—
    (1) Maujé Nilji.
20. The following village in pargana Azamnagar :—
    (1) Khásbág.
21. The following isolated villages :—
    (1) Kasba Shedbál.
    (2) „ Jugal.
    (3) Maujé Kágvád.
    (4) „ Ugar Budrukh.
    (5) „ Murgundi.
    (6) „ Távsi.
    (7) „ Nándgaon.
22. The following villages in pargana Lakshmeshvar :—
    (1) Maujé Kalas.
    (2) „ Surngi.
    (3) „ Konhigeri.
    (4) „ Vadvi.
    (5) „ Bijúr.
    (6) „ Kankápur.

[a] As to the village of Dupat Borgaon in Karyát Dudhgaon and the village of Borgaon in Karyát Digráj, see foot-note [b] on p. 28, *supra*.

(7) Maujé Kondikop.
(8) „ Konerikop.

23. The following villages in pargana Mulgund :—

(1) Maujé Mulgund.
(2) „ Sherul.
(3) „ Kabuláyat Katti.
(4) „ Harthi.
(5) „ Chinchli.
(6) „ Kallúr.
(7) „ Chaklabbi.
(8) „ Hirenarti.
(9) „ Yergupi.
(10) „ Náráyanpur.
(11) „ Nágarhalli.
(12) „ Mantúr.
(13) „ Keresúr.
(14) „ Hebsúr.
(15) „ Karlvád.
(16) „ Kuratti.
(17) „ Chikk Narti.

24. The following village in Karyát Ingalhalli :—
Maujé Ingalhalli.

25. The following villages in pargana Nargund :—

(1) Maujé Nargund.
(2) „ Bairanhatti.
(3) „ Dandápur.
(4) „ Karvinkop.
(5) „ Jagápur.
(6) „ Maujepeth.
(7) „ Arbaun.
(8) „ Somápur.
(9) „ Burlkatti.
(10) „ Siddápur.
(11) „ Chikk Nargund.
(12) „ Kankikop.
(13) „ Hálgop.

(*Schedule B.*)

26. The following villages in pargana Navalgund:—
(1) Maujé Kuregovankop.
(2) „ Hunrikatti.

27. The following villages in Karyát Shirol:—
(1) Maujé Shirol.
(2) „ Vadvatti.
(3) „ Ingalgundi.
(4) „ Kalas.
(5) „ Lingadhál.
(6) „ Budihál.

28. The following villages in taraf Konnúr:—
(1) Maujé Konnúr.
(2) „ Árlikatti.
(3) „ Lakmápur.
(4) „ Gunakop.
(5) „ Chikk Molangi.
(6) „ Hira Tadsi.
(7) „ Vásina.
(8) „ Idgal.
(9) „ Mádhági.
(10) „ Bennúr.
(11) „ Ajgundi.
(12) „ Bennúr.
(13) „ Talakvád.
(14) „ Hotiholli.
(15) „ Lingadhál.

29. The following villages in pargana Bádámi:—
(1) Maujé Megúr.
(2) „ Kárámudi.

30. The following village in Máhál Hoskerri:—
(1) Kharlkop.

31. The isolated villages of Behatti and Sangdál.

SCHEDULE C.

[*Lands ceded for Railway purposes.*]

Repealed by Act XV of 1874.

BOMBAY ACT No. V OF 1863.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to break up streets, &c., under superintendence, and to open drains.
2. Not to enter on private land without consent.
3. Notice to be served on persons having control, &c., before breaking up streets or opening drains.
4. Streets or drains not to be broken up except under superintendence of persons having control of same.
   If persons having control, &c., fail to superintend, Company may proceed.
5. Streets broken up to be re-instated without delay.
6. Penalty for opening, or breaking up street without notice, &c.;
   delay in re-instating streets, &c.;
   Neglect to fence and light, &c.
7. In case of delay, persons concerned may re-instate and recover expenses.
   Expenses how ascertained and recovered.
8. Power to enter buildings for ascertaining quantity of gas consumed.
   Penalty for hindering.
9. Recovery of rents due for gas.
10. Power to remove pipes when supply of gas discontinued.
11. Meters, &c., not liable to distraint for rent.
12. Penalty for fraudulently using gas.
13. Penalty for wilfully damaging pipe.
14. Satisfaction for accidentally damaging pipe.
15. Penalty for causing water to be corrupted.
    Daily penalty during continuance of offence.
16. Daily penalty during escape of gas after notice.
17. Penalty if water be fouled by gas.
18. Power to examine gas-pipes to ascertain cause of water being fouled.
19. Expenses by whom to be borne;
20. how ascertained.
21. Liability to indictment for nuisance.
22. Copies of memorandum and articles of association and of regulations, &c., to be kept for inspection—
    at office of Company in Bombay;
    in Secretariat, and Office of Registrar of Joint Stock Companies.
    Copy to be evidence.
23. Service of process on Company.
24. Recovery of penalties, &c.
25. Levy by distress.
26. No distress unlawful for want of form, &c.
27. Power to extend Act to other places and Companies.
28. Interpretation.

BOMBAY ACT No. V OF 1863.

(*The assent of the Governor-General of India to this Act was first published by the Governor of Bombay on the 12th May, 1863.*)

An Act to confer certain powers on the Bombay Gas Company, Limited; and to enable Government to confer similar powers on other Companies registered and incorporated for the purpose of manufacturing and supplying gas.

Preamble.

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing gas-works into the Presidency of Bombay, which Company has been completely registered in England under the "Joint Stock Companies' Acts, 1856 and 1857," with limited liability, and has duly obtained a certificate of incorporation under the name of "The Bombay Gas Company, Limited:"

19 & 20 Vict., c. 47. 20 & 21 Vict., c. 14.

and whereas the said Company is about to erect gas-works in the suburbs of Bombay, and is engaged in the preparation of apparatus and materials for the manufacture and supply of gas, and also in the business of gas-fitters in the Presidency of Bombay:

and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with gas the town and suburbs of Bombay; which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places within or subject to the Presidency of Bombay, and to other Companies which are or may hereafter be registered and incorporated for the purpose of manufacturing and supplying gas;

It is enacted as follows:—

Power to break up streets, &c., under superintendence, and to open drains.

1. In the town and suburbs of Bombay and in any other town or place to which the provisions of this Act may hereafter be extended, by an order or orders or permission of the Governor in Council, the Bombay Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains or tunnels within or under such streets and bridges, and lay down and place within the same limits, pipes, conduits, service-pipes and other works, and from time to time repair, alter or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste-liquids which may arise in the making of the gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges;

and the Company may in and on such streets and bridges erect any pillars, lamps and other works, and do all other acts which the said Company shall

from time to time deem necessary for supplying gas to the inhabitants of the said town and suburbs of Bombay, or other town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Not to enter on private land without consent.

2. Provided always that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said Company may at any time enter upon and lay or place any new pipe in the place of any existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be served on persons having control, &c., before breaking up streets or opening drains.

3. Before the said Company proceed to open or break up any street, bridge, sewer, drain or tunnel, they shall give to the municipal commissioners for the town of Bombay, or other persons under whose control or management the same may be, or to their clerk, surveyor or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the works, or the necessity for the same shall have arisen.

Streets or drains not to be broken up except under superintendence of persons having control of same.

4. No such street, bridge, sewer, drain or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officers, and according to such plan as shall be approved of by such persons, or their officers, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and a Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain:

If persons having control, &c., fail to superintend, Company may proceed.

Provided always that, if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be re-instated without delay.

5. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and re-instate and make good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same.

Penalty for opening or breaking up street without notice, &c.,

6. If the said Company open or break up any street or bridge, or any sewer, drain or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice; or

delay in re-instating streets, &c.,

if the said Company make any delay in completing any such work, or in filling in the ground, or re-instating and making good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby; or

neglect to fence and light, &c.

if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good,

they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such default is made, a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, persons concerned may re-instate and recover expenses.

7. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall in case of any dispute about the same be

ascertained and recovered in Bombay and in any other town or place subject to the jurisdiction of any of Her Majesty's High Courts of Judicature, in the manner in which expenses are ascertained and recovered [a] in municipalities under the law for the time being in force, [a] and, in any town or place not within the jurisdiction of any of Her Majesty's High Courts of Judicature, in the same manner as damages are recoverable under this Act.

Expense how ascertained and recovered.

8. The clerk, engineer or other officer duly appointed for the purpose by the said Company may at all reasonable times enter any buildings, or place, lighted with gas supplied by the said Company, in order to inspect the meters, fittings and works for regulating the supply of gas, aud for the purpose of ascertaining the quantity of gas consumed or supplied;

Power to enter buildings for ascertaining quantity of gas consumed.

and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid, at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty rupees.

Penalty for hindering.

9. If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the gas from entering the premises of such person by cutting off the service-pipes, or by such means as the said Company shall think fit, and the said Company may recover the rent due from such person, together with the expense of cutting off the gas, by proceeding before a Magistrate, or by action or plaint in any Court of competent jurisdiction.

Recovery of rents due for gas.

10. In all cases in which the said Company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and recover and carry away any pipe, meter, fittings or other works the property of the said Company.

Power to remove pipes when supply of gas discontinued.

11. Any pipe, meter, fitting or other work let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate or tax due upon the premises where the same may be used, nor be taken in execution under any process of any Court whatsoever, or in or under any proceeding in bankruptcy or insolvency, against the person in whose possession or power the same may be.

Meters, &c., not liable to distraint for rent.

12. Every person who shall lay, or cause to be laid, any pipe to communi-

Penalty for fraudulently using gas.

[a-a] These words were substituted for the original reference by Act XVI of 1895.

cate with, or who shall derive gas directly or indirectly from, any pipe belonging to the said Company, without their consent, or

who shall fraudulently injure or tamper with any such pipe, meter, fitting or other work as aforesaid, or

who, in case the gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said Company,

shall, in addition to the amount firstly due to the Company for gas supplied, forfeit to the said Company the sum of fifty rupees for every such offence and also the sum of twenty rupees for every day every such offence shall have been continued or repeated, and the said Company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into, and shall not be liable to any action or suit for so doing.

Penalty for wilfully damaging pipe.

13. Every person who shall wilfully remove, destroy or damage any pipe, pillar, post, plug, lamp or other work of the said Company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said Company, shall for each such offence forfeit to the said Company any sum not exceeding fifty rupees in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipe.

14. Every person who shall carelessly or accidentally break, throw down or damage any pipe, pillar or lamp belonging to the said Company or under their control shall pay to the Company such sum of money by way of satisfaction, not exceeding the amount of the damage done, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

15. If the said Company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, pond or place for water shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees.

Daily penalty during continuance of offence.

And they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought

or shall flow, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby.

Daily penalty during escape of gas after notice.

16. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping, and in case the said Company shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall, for every such offence, forfeit the sum of fifty rupees for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice.

Penalty if water be fouled by gas.

17. Whenever any water shall be fouled by the gas of the said Company they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding five hundred rupees, and a further sum not exceeding one hundred rupees for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine gas pipes to ascertain cause of water being fouled.

18. For the purpose of ascertaining whether such water be fouled by the gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits and works of the said Company: provided that such person before proceeding so to dig and examine shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement or place where such digging is to take place, and they shall be subject to the like obligation of re-instating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company for the purpose of laying their pipes, and provided further that the officers or other persons acting on behalf of the Company may be present at such digging and examination as aforesaid.

Expenses by whom to be borne;

19. If, upon any such examination, it appear that such water has been fouled by any gas belonging to the said Company, the expenses of the digging, examination and repair of the street or place disturbed in any such examination shall be paid by the said Company, but, if upon such examination it appear that the water has not been fouled by the gas of the said Company,

the person causing such examination to be made shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

how ascertained.

20. The amount of the expenses of every such examination and repair and of any injury done to the said Company shall in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 7 [a].

Liability to indictment for nuisance.

21. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable, in consequence of making or supplying gas.

Copies of memorandum and articles of association and of regulations, &c., to be kept for inspection—

22. Copies of the memorandum and articles of association of the said Company and of every other instrument registered under the said "Joint Stock Companies Acts, 1856 and 1857," as constituting the regulations of the said Company, and a copy of every special resolution of a general meeting whereby any change shall have been, or at any time shall be, made in the regulations of the said Company, shall be kept at the office of the said Company in Bombay, and shall there be open to the inspection of all persons during the usual hours of business of the said office; 19 & 20 Vict., c. 47. 20 & 21 Vict., c. 14.

at office of Company in Bombay,

and copies of such memorandum and articles of association and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the Bombay Secretariat and also in the office of the Registrar of Joint Stock Companies, or, if there be no such officer, in the office of the person having the custody of the records of the High Court of Judicature at Bombay, and shall there be filed;

in Secretariat, and office of Registrar of Joint Stock Companies.

and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the person having the custody of the records of the said High Court, shall be good and sufficient evidence of such memorandum or articles of association, instrument or special resolution, in all actions, suits and proceedings whatsoever, whether civil or criminal, to be had in any Court of justice, whether established by Royal Charter or not, or before any Magistrate or revenue or other officer, and whether acting judicially, or in any proceeding preliminary to a judicial inquiry throughout the territories within or subject to the Presidency of Bombay.

Copy to be evidence.

[a] Words repealed by Bom. Act III of 1886 are omitted.

23. All services of mesne or other process, and all notices whatsoever, which by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served or given for any purpose whatsoever to the said Company, shall and may be made, served and given, in addition to all ways and means by which the same may otherwise be legally made, served and given, by leaving the same addressed to the managing agent of the said Company at the office in Bombay of the said Company. Service of process on Company.

24. Any penalties and forfeitures imposed by this Act, and any damages and expenses the recovery of which is not hereinbefore specially provided for, may respectively be recovered to the amount of fifty rupees by summary proceeding before a Magistrate. Recovery of penalties, &c.

25. All penalties, forfeitures, damages and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the surplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained, or instead of proceeding by distress and sale, or in case of failure to realise by distress the whole or any part of any penalties, forfeitures, damages or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage or expenses may sue the person liable to pay the same in any Court of competent jurisdiction. Levy by distress.

26. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction. No distress unlawful for want of form, &c.

27. It shall be lawful for the Governor in Council, by an order to be published in the Bombay Government Gazette, to extend the provisions of this Act to any other town or place within or subject to the Presidency of Bombay, and also to any other Joint Stock Company which may hereafter be formed for the purpose of manufacturing and supplying gas and which may have been completely registered according to law. Power to extend Act to other places and Companies.

Interpretation.

28. The following words and expressions used in this Act shall have meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) [a]—

the word "street" shall include any public passage or place, and any road, square, court, alley, highway, lane, gully or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public or railway-bridge or causeway, and over the approaches thereto [a] :

the expression "town and suburbs of Bombay" mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolába, together with all land or ground now or which may be hereafter reclaimed from the sea or harbour.

BOMBAY ACT No. VI OF 1863.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Definition of public conveyance.
2. No person to use or let for hire conveyance not licensed, or not numbered, or not having list of fares.
   Penalty for contravention.
3. No attendant of public land-conveyance to ply without license and badge.
   Penalty for contravention.
   Proviso.
4. Contents of license.
5. Notice to be given of change of residence.
6. Commissioner of Police and Master Attendant may grant licenses for public conveyances.
7. Fees for licenses.
   Proviso.
8. Licenses to be renewed annually.
   Proviso.
9. Power of Commissioner of Police and Master Attendant to suspend or revoke licenses.
   Penalty for plying after suspension of license.
10. Suspended or revoked licenses to be returned to Commissioner of Police or Master Attendant.

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[a] Definitions repealed by Bom. Act III of 1886 are omitted.

SECTIONS.

11. Issue of duplicate of license lost, mislaid or defaced.
Power to renew license or restore inscription.
Fee for renewed license.
12. Licenses not transferable without sanction endorsed thereon.
Responsibility of transferee of license.
Effect of transfer without sanction.
13. Registers to be kept.
Penalty for misuse of license.
14. Power to make rules.
Rates of fares to be fixed.
Stands to be appointed.
Rates and stands to be published.
15. Penalty for carrying passengers in excess, or otherwise violating condition of license.
16. Penalty for concealing number or preventing person taking note thereof.
17. Penalty for permitting person to ride in public conveyance without consent of hirers.
18. Drivers, &c., to carry list of fares, &c.;
to produce same on demand.
19. Lists of rates and fares, &c., to be prepared in offices of Commissioner and Master Attendant and issued to applicants.
20. Penalty for refusing to give way to private conveyance or obstructing driver of other public conveyance.
21. Penalty on drivers, &c., for intoxication, &c.
22. Penalty for refusing fare, loitering, demanding excess fare, and plying for hire off public stands.
23. Arrest in case of hurt or damage, negligently or wilfully occasioned.
Compensation in addition to punishment.
24. In cases of disputes, driver or hirer may be required to proceed to Police Court or to nearest European Police-officer.
25. Licensee bound, when required by Police-officer, to ply for hire.
Penalty for refusal.
26. On information of offence, licensee may be summoned to produce driver, &c.
Penalty for default.
Proceeding *ex parte*.
27. Fines and awards how levied.
28. Penalty for refusing to pay legal fare.
Compensation to driver.
29. Penalty for injury to public conveyance.
Compensation.
30. Magistrate may award compensation to driver in case of groundless complaint.
31. Property left in public conveyance to be deposited.
Restoration to owner.
Penalty for not depositing.
32. Police may arrest, without warrant, person offending in his view, and may seize and detain public conveyance when necessary.

SECTIONS.

33. [*Repealed.*]
34. Power to extend Act;
to alter scale, and dispose of balance, of fees.
35. Convictions under Act final.
36. Construction.
37. Extent.
38. [*Repealed.*]

BOMBAY ACT No. VI OF 1863[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 11th June, 1863.*)

An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.

Preamble.

WHEREAS it is expedient that arrangements be made for the better regulation and control of public conveyances plying for hire for the conveyance of persons or goods within the town, suburbs and harbour of Bombay, and for the conduct of the licensees, drivers or other attendants of such public conveyances; It is hereby enacted as follows :—

Definition of public conveyance.

1. Every carriage with two or more wheels which shall be used for the purpose of plying for hire within the jurisdiction of the Commissioner of Police of Bombay, of whatever form or construction, or by whatever number of horses or other animals the same shall be drawn, and every pálkí which shall be let for hire, shall be deemed and taken to be a public land-conveyance;

and every boat or other vessel carrying passengers for hire within the said jurisdiction, whatever be the means by which the same may be propelled, shall be deemed and taken to be a public water-conveyance within the meaning of this Act.

No person to use or let for hire conveyance not licensed,

2. No person shall keep or let for hire any public conveyance within the said jurisdiction, without having a license in force for the same, granted, in the case of a land-conveyance by the Commissioner of Police, and in the case of a water-conveyance by the Master Attendant,

or not numbered,

nor, if such conveyance be ordinarily let for hire for periods of less than one whole day, unless there be painted or branded on such parts of the said conveyance as the Commissioner of Police or Master Attendant may respectively direct a number corresponding with that of the license granted for such

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[a] Bom. Act VI of 1863 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh and in Aden—see Appendix to Vol. I of this Code, pp. xxxiii and lviii, respectively.

conveyance, together in the case of a land-conveyance licensed to carry passengers, with the number of passengers it is licensed to carry, as follows :—

"Licensed to carry ( ) passengers only;"

nor unless a board or plate inscribed with such list of rates of fares, and affixed in such manner, as the Commissioner of Police or Master Attendant may respectively direct, be attached to such conveyance; or not having list of fares.

and any person keeping or letting for hire any public conveyance without such license as aforesaid, or without such number or inscription being legibly painted or branded thereon, or without such list of rates of fare being attached thereto, shall be liable, on conviction before a Magistrate of Police, to a penalty not exceeding rupees one hundred, or to simple imprisonment for a period not exceeding three months. Penalty for contravention.

3. No attendant of any public land-conveyance shall ply for hire or demand or receive any fare for the conveyance of any passenger unless he shall have received a license from the Commissioner of Police, and a metal badge bearing the number of such license, which badge he shall be bound to wear on a conspicuous part of his dress at all times when he may be so plying for hire or pursuing his occupation as such attendant, No attendant of public land-conveyance to ply without license and badge.

and if any attendant who shall not have received a license and badge shall demand or receive any money from any passenger, Penalty for contravention.

or if any licensed attendant shall fail to wear the badge aforesaid as in this section directed,

or if he shall permit any other person to wear his badge,

he shall for each such offence be punishable, on conviction before a Police Magistrate, with a fine not exceeding rupees twenty, in default of payment of such fine shall be liable to simple imprisonment for a period not exceeding one month:

Provided that every person other than the licensed attendant who wears the badge is presumed to wear it with the licensed attendant's permission. Proviso.

4. Every license shall contain and specify— Contents of license.

the full name and address of the licensee,

the number and class of conveyance for which the license has been issued,

the number of horses or other animals by which the conveyance shall be drawn, or the number of persons composing the crew,

the number of passengers such conveyance is licensed to carry, and whether it be licensed to ply for hire on fixed stands only or to take up passengers on any and what roads or places, and between any and what points,

the date on which such license was granted, and that on which it will by efflux of time lapse and expire.

Notice to be given of change of residence.

5. As often as any licensee shall change his residence, he shall give notice thereof in writing signed by himself to the Commissioner of Police, or the Master Attendant, as the case may be, and, in failure to give that notice for one week after his change of residence, he shall be liable to a penalty of rupees twenty.

Commissioner of Police and Master Attendant may grant licenses for public conveyances.

6. Licenses issued under section 2 [a] shall usually be granted on the first January in each year, but the Commissioner of Police or Master Attendant may, at any other time, grant licenses, and shall always at the time of granting every license, and at all other times when necessary, cause to be painted or branded upon a conspicuous part of every such public conveyance such number and inscription as are required by section 2:

Provided that the said Commissioner of Police or Master Attendant may, in his discretion, refuse to grant any such license for any conveyance which he may consider to be insufficiently found or otherwise unfit for the conveyance of the public, or to any applicant whom he may consider, from youth, bad character or for other reason, unfit to be entrusted with the same.

Fees for licenses.

7. For every such license there shall be levied a fee in accordance with the class of license granted, as shown in the following scale:—

omnibuses and other vehicles on four wheels to be drawn by two or more horses, and licensed to carry more than six persons including the driver, rupees two:

omnibuses, shigrams and other vehicles on four wheels, licensed to carry not more than six persons including the driver, whether drawn by one or more horses, one rupee:

buggies, cabs or similar vehicles, on two wheels, licensed to carry three persons only, including the driver, eight annas:

bullock-carts on two or more wheels, drawn by two bullocks and licensed to carry five persons, including the driver, four annas:

bullock-carts on two wheels, drawn by two bullocks and licensed to carry three persons, including the driver, four annas:

pálkí, four annas per year:

bandar-boats and ferry-boats, one rupee:

dingís, eight annas:

tonís or canoes, two annas:

labour-carts to carry goods only, four annas.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

The balance of such fees, after all necessary contingent expenses shall have been defrayed, shall, from time to time, be paid into the Bank of Bombay [a] by the Master Attendant to the credit of the port-fund [b]:

Provided that nothing in section 2 shall be held to prevent cargo-boats licensed under the Sea Customs Act, 1878 [c], from carrying so many passengers for hire as the chief officer of customs may in the license permit. Proviso. VIII of 1878.

8. The Commissioner of Police and Master Attendant shall, on or as soon as possible after the first day of January in each year, renew the licenses and numbers of the said public conveyances on payment of the regulated fee by the licensee: Licenses to be renewed annually.

Provided that nothing herein contained shall prevent the Commissioner of Police or Master Attendant from altering or changing the number of any such conveyance, or from refusing absolutely to renew the license of any conveyance, which he may consider to be insufficiently found, or otherwise unfit for its intended purpose, or the owner of which he may consider unfit to be entrusted with such renewed license. Proviso.

9. In the event of any such licensed public conveyance being at any time insufficiently found or appointed, or Power of Commissioner of Police and Master Attendant to suspend or revoke licenses.

of any driver or attendant of any such public conveyance appearing unfit to be trusted with the charge of the same, or

of such conveyance being used for passengers when licensed only for labour,

the Commissioner of Police or Master Attendant may, in his discretion, suspend or revoke the license, and order the number of such conveyance to be erased;

and the owner of any conveyance, the license of which shall have been suspended, or the number of which shall have been ordered to be erased, as aforesaid, who shall again permit the same to ply for hire before he shall have obtained a restoration or renewal of such license from the Commissioner of Police or Master Attendant, and affixed a corresponding number and inscription to such conveyance, shall, on conviction before a Magistrate of Police, be liable to the penalty prescribed by section 2 [d] for keeping or letting for hire an unlicensed public conveyance. Penalty for plying after suspension of license.

10. All licenses which shall have been suspended or revoked by the Commissioner of Police or Master Attendant under the authority of the preceding Suspended or revoked licenses to be

[a] Words repealed by Bom. Act III of 1888 are omitted.
[b] Words repealed by Act XII of 1876 are omitted.
[c] The reference to Act VI of 1863 is altered in accordance with Act VIII of 1878, s. 2. (For Act VIII of 1878 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.)
[d] Words repealed by Bom. Act III of 1886 are omitted.

returned to Commissioner of Police or Master Attendant.

section shall be delivered up to the said Commissioner of Police or Master Attendant by the licensee within twenty-four hours after the suspension or revocation thereof, under penalty, on conviction before a Magistrate of Police, of a fine of rupees twenty, failing payment of which the licensee shall be liable to simple imprisonment for a period not exceeding two months.

Issue of duplicate of license lost, mislaid or defaced.

11. Duplicate licenses may be granted by the Commissioner of Police or Master Attendant on proof of the license granted for any public conveyance having been lost or mislaid, or of the particulars written in such license having been accidentally obliterated or defaced;

Power to renew license or restore inscription. Fee for renewed license.

and the said Commissioner of Police or Master Attendant may also renew or restore the numbers or inscriptions on public conveyances which shall have become obliterated; a fee equal to one-half the fee leviable under section 7 being previously paid for each license or number renewed or restored under this section, or under section 8[a].

Licenses not transferable without sanction endorsed thereon.

12. Licenses issued under this Act may be transferred by or on account of the licensee to any other person, with the sanction of the Commissioner of Police or Master Attendant respectively, such sanction being duly endorsed on the reverse of such license;

Responsibility of transferee of license.

and all responsibilities of the original licensee after such sanction endorsed as aforesaid shall attach to the transferee:

Effect of transfer without sanction.

Provided that any transfer without such sanction endorsed shall forthwith render the license null and void.

Registers to be kept.

13. The Commissioner of Police and Master Attendant shall keep registers containing the full particulars of each public conveyance as entered in the license thereof,

Penalty for misuse of license.

and any person using or authorizing the use of a license, number or inscription, other than for the particular conveyance for which it has been issued, as apparent from the register, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees one hundred, or, in default of payment of such fine, to simple imprisonment for a period not exceeding three months.

Power to make rules.

14. The Commissioner of Police may, subject to the approval of the Governor in Council, make and publish subsidiary rules not inconsistent with the provisions of this Act for promoting the objects of the same and for the better regulation of public land-conveyances,

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[a] Words repealed by Bom. Act III of 1885 are omitted.

and the said Commissioner of Police shall, from time to time, fix the rates for the fare or hire of such public land-conveyances, specifying whether the hire or fare be for the whole conveyance or for one or more passengers,

Rates of fares to be fixed.

and shall from time to time appoint stands or places at which stands and places alone such public conveyances may stand to ply for hire;

Stands to be appointed.

and the rate so settled, and stands or places so appointed shall, when sanctioned by the Governor of Bombay in Council, be published in the Bombay Government Gazette, and shall thereafter, or until such rates and places shall be again altered by the authorities as aforesaid, be held and taken to be legally fixed and appointed; the Master Attendant having the same power, subject to the same restrictions, over public water-conveyances as the Commissioner of Police has by this section over public land-conveyances.

Rates and stands to be published.

15. Any licensee, driver or other attendant of any public conveyance, who shall suffer or permit more passengers to be carried by the same than it is licensed to carry, or shall, in any other way, infringe or violate any of the conditions of his license, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding fifty rupees, or, in default of payment of such fine, to simple imprisonment for a period not exceeding two months.

Penalty for carrying passengers in excess or otherwise violating condition of license.

16. If any licensee, driver or other attendant of any public conveyance shall permit or suffer the number or inscription thereof to be in any manner or by any means concealed from public view, or if any such licensee, driver or other attendant as aforesaid shall, in any way, attempt to prevent or obstruct any person taking or noting the number of such public conveyance, he shall, on conviction before a Magistrate of Police, forfeit for every such offence rupees twenty, or, in default of payment of such fine, be liable to simple imprisonment for a period not exceeding two months.

Penalty for concealing number or preventing person taking note thereof.

17. If the licensee, driver or other attendant of any public conveyance, the whole of which has been hired or taken by one or more persons, shall permit or suffer any person to ride or be carried in, upon or about, such public conveyance, without the express consent of the person or persons hiring the same, such licensee, driver or other attendant shall, for every such offence, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to imprisonment as prescribed in the last preceding section.

Penalty for permitting person to ride in public conveyance without consent of hirers.

18. Every licensee, driver or other attendant in charge of any public conveyance shall have with him, when plying for hire, a clean and legible list in English and such vernacular language or languages as the Commissioner of

Drivers, &c., to carry list of fares, &c.

Police or Master Attendant may order, bearing the name in full of the licensee, and showing the rates and fares fixed and appointed to be taken for the fare or hire of his conveyance, with an abstract of the law[a] relating to public conveyances, and shall, on demand, produce the same for the information of any hirer of, or passenger by, such public conveyance, under penalty, on conviction before a Magistrate of Police, of a fine not exceeding rupees twenty, and, in default of payment of such fine, he shall be liable to simple imprisonment for a period not exceeding two months.

To produce same on demand.

Lists of rates and fares, &c., to be prepared in offices of Commissioner and Master Attendant, and issued to applicants.

19. The above lists, as also lists of the rates and fares fixed and appointed for public conveyances, and of the stands or places at which the same ply for hire, with an abstract of the law relating to such conveyances and to the licensees and attendants thereof, shall be prepared in the offices of the Commissioner of Police and Master Attendant, and shall be issued to all applicants on payment of a fee of four annas for each copy.

Penalty for refusing to give way to private conveyance or obstructing driver of other public conveyance.

20. If any driver or other attendant of any public conveyance shall refuse or neglect to give way, if he conveniently can, to any private conveyance, or shall obstruct or hinder the driver or other attendant of any other public conveyance, in taking up or setting down any person into or from any such other public conveyance, every such driver or other attendant so offending shall, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to simple imprisonment for a period not exceeding two months.

Penalty on drivers, &c., for intoxication, &c.

21. Every driver and other attendant of any public conveyance who shall at any time during such employment be intoxicated, or who shall refuse to obey the reasonable orders of the person or persons hiring or using his conveyance, or shall, when plying for hire, keep the inside of his conveyance dirty, shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding rupees twenty, and in default of payment thereof shall be liable to imprisonment as prescribed in the last preceding section.

Penalty for refusing fare, loitering, demanding excess fare, and plying for hire off stands.

22. If the driver or other attendant of any public conveyance plying for hire, not being a labour-cart,

shall demand prepayment of his fare, or

shall refuse to convey any person desirous of hiring his conveyance, or

shall refuse or delay to proceed with reasonable expedition, or

shall exact or demand for the hire thereof more than the regulated sum, or

shall stand to ply for hire at any place or places other than the stands or places appointed for that purpose,

[a] "Law" was substituted for "laws" by Act XVI of 1895.

he shall, for every such offence, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, and in default of payment of the same shall be liable to simple imprisonment for a period not exceeding two months.

Arrest in case of hurt or damage, negligently or wilfully occasioned.

23. The driver or other attendant of any public conveyance who shall by negligence or misconduct cause any hurt or damage may be arrested by any person who shall see such offence committed, and be by him made over to a constable or Police-officer for arraignment before a Magistrate of Police,

Compensation in addition to punishment.

and, in addition to such punishment as may thereupon be inflicted under the law in that case made and provided, the offender shall pay such reasonable compensation to the complainant as such Magistrate shall see fit to award, and in default of payment thereof shall be liable to simple imprisonment for a period not exceeding six months.

In cases of disputes, driver or hirer may be required to proceed to Police Court, or to nearest European Police-officer.

24. In case of any dispute the hirer of a public conveyance may require the driver or other attendant thereof, and the driver or attendant may require the hirer thereof, to proceed forthwith to the nearest Police Court, where the dispute shall be determined by the Magistrate then sitting.

Should such Police Court be closed, either party may require the other to proceed to the nearest European Police-officer, who shall, if necessary, arrange for the hearing of the complaint at the next sitting of the Court;

but if the dispute or complaint take place at a landing-pier or a railway-station, and the hirer be about forthwith to leave the island of Bombay, it shall be competent to the said European Police-officer, after hearing both parties, to determine what sum may be due by the hirer, and to demand and receive the same, together with, in the case of any sum due for compensation under section 29 of this Act, an additional sum of rupees ten, on payment of which such Police-officer, having taken the name and address of the hirer and permitted him to depart, shall thereupon make a report of the dispute or complaint, and deliver the money received by him, to a Magistrate of Police, who, if the claim or complaint of the driver or attendant shall not have been excessive or unjust, may award and pay to the said driver or attendant the amount thereof, not being in excess of the total amount received and delivered by the Police-officer;

but, if any offence shall appear to have been committed against the hirer by the driver or attendant, the owner and driver or attendant shall have no claim to hire or compensation, and the Police Magistrate shall likewise inquire into such offence, and on proof of the same shall adjudge punishment or otherwise proceed according to law, and in either case the Magistrate of Police,

having given notice to such hirer, shall on demand return to him the sum paid by such hirer to the Police-officer, or such surplus as may remain thereof.

Licensee bound, when required by Police-officer, to ply for hire.

25. Every licensee of any public conveyance under this Act shall be bound, whenever required by a Police-officer to do so, to cause the same to ply for hire, and every driver or attendant shall, when so required, continue to exercise his calling in the customary manner,

Penalty for refusal.

and for any refusal or failure to comply with such requisition without reasonable cause proved, such licensee, driver or attendant shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty.

On information of offence, licensee may be summoned to produce driver, &c.

26. When any information or complaint shall be made before any Magistrate of Police against the driver or other attendant of any public conveyance, for any offence committed by him, in the exercise of his vocation, against any of the provisions of this Act, such Magistrate of Police may forthwith and from time to time summon the licensee of such public conveyance to appear and produce such driver or other attendant to answer such information or complaint;

Penalty for default.

and if any such licensee shall neglect or refuse personally to appear or to produce such driver or other attendant according to such summons, without a reasonable excuse, to be allowed by the Magistrate of Police before whom he ought to appear according to such summons, he shall be liable to fine not exceeding rupees fifty, and it shall be lawful for such Magistrate to hear and determine the said information or complaint in the absence of the said licensee, driver or other such attendant as aforesaid, and upon satisfactory proof of such offence to give judgment against such person for the penalty incurred by reason of such offence.

Proceeding *ex parte.*

Fines and awards how levied.

27. Pecuniary fines, penalties or awards levied, imposed or made under this Act, for which no commutation by imprisonment is herein provided, may be levied by distraint and sale of the offender's moveable property, under warrant of the Police Magistrate who has inflicted the punishment, and, if any driver or other attendant shall fail to pay any fine, penalty or award for which commutation by imprisonment shall not have been awarded, the same may be levied by distraint and sale of the moveable property of the licensee of the public conveyance of which the offender was an attendant;

and, in cases wherein imprisonment shall have been adjudged in commutation, the offender shall at any time be released upon paying such proportion of the fine as shall equal the proportion of his whole term of imprisonment still unexpired.

Penalty for refusing to pay legal fare.

28. If any person shall refuse or omit to pay to the driver or other attendant of any public conveyance the lawful fare due to him for the hire or fare of such public conveyance, it shall be lawful for any Magistrate of Police, upon complaint of the same being preferred, and upon proof of the facts made upon oath or solemn affirmation before him, to award reasonable satisfaction to the party so complaining for his fare, and also a reasonable compensation for his loss of time in attending to make and establish his complaint, and, in default of payment, to sentence the defaulter to simple imprisonment for a period not exceeding one month.

Compensation to driver.

Penalty for injury to public conveyance.

29. If any person using a public conveyance under this Act shall wilfully or negligently injure the same, he shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding twenty rupees, and shall also pay to the owner of the public conveyance compensation for the injury, the amount of the compensation to be fixed by the Magistrate and to be recovered as a fine.

Compensation.

Magistrate may award compensation to driver in case of groundless complaint.

30. If the driver or other attendant of any public conveyance, not having previously offered his conveyance for hire to the person desirous of hiring it, shall, in civil and explicit terms, declare to such person that his conveyance is actually hired, and shall afterwards, notwithstanding his reply, be proceeded against for his refusal to carry such person in his said conveyance, and shall upon the hearing of the complaint produce sufficient evidence to prove that such conveyance was at the time actually and *bonâ fide* hired, and it shall not appear that he used any uncivil language, or that he had offered his conveyance for hire to, or improperly conducted himself towards, the party by whom he shall be so proceeded against, or

if the person who has proceeded against him shall not appear to prosecute his complaint,

the Magistrate before whom such driver or other attendant shall be brought may order such person to make the driver or other attendant such compensation for his loss of time in attending to make his defence to such complaint as the Magistrate may deem reasonable, and, in default of payment, may sentence him to simple imprisonment for a period not exceeding one month.

Property left in public conveyance to be deposited.

31. All property left in any public conveyance licensed under this Act shall be forthwith deposited by the driver or attendant, as the case may be, in the office of the Commissioner of Police.

Restoration to owner.

Such property shall be returned to the person who shall prove to the Commissioner of Police that the same belonged to him, on payment of all expenses

reasonably incurred, and of such reasonable sum to the driver or attendant as the Commissioner of Police may award,

and any driver or other attendant of any public conveyance licensed under this Act, who shall neglect so to deposit all property left in a public conveyance, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty, and in default of payment of the same to simple imprisonment for one month, or to both.

Penalty for not depositing.

Police may arrest, without warrant, person offending in his view, and may seize and detain public conveyance when necessary.

32. Any Police-officer or constable may arrest without a warrant any person committing in his view any offence against this Act, and may seize and detain in any place of safety until judgment shall be given in the case any conveyance which, for the better fulfilment of the true intent and meaning of this Act, it may be necessary so to seize and detain.

33. [*Repeal of Act IV of 1841.*] *Repealed by Act No. XII of 1873.*

Power to extend Act;

34. The provisions of this Act may be extended to any town or place in the Presidency of Bombay, by an order to that effect of the Governor in Council published in the Government Gazette not less than thirty days before such extension.

to alter scale, and dispose of balance, of fees.

And it shall be lawful in any such case for the Governor in Council to alter the scale, and dispose of the balance, of fees as may seem necessary, and to appoint any person to perform the duties by this Act assigned to the Commissioner of Police and Master Attendant, and to empower all or any Magistrates having jurisdiction at the place to exercise the powers by this Act conferred on the Magistrates of Police, and any such order may be in like manner revoked or altered.

[a] The Governor in Council may, by an order published as aforesaid, direct that in any town or place to which he extends or has extended the provisions of this Act—

(*a*) all or any of the said provisions shall apply to all vehicles, or to any class of vehicles, which are kept, or ordinarily let, for hire, although such vehicles be not used for the purpose of plying for hire;

(*b*) any class of vehicles shall be exempt from all or any of the said provisions.

In this section the word "place" shall be deemed to include, and to have always included, a road between two towns or places [a].

Convictions

35. No conviction under this Act by any Magistrate of Police or Magis-

[a-a] These paragraphs were added by Bom. Act V of 1887.

trate contemplated in the above section shall be open to appeal or reversal by any other Court. under Act final.

36. Attendants on public conveyances licensed under this Act include drivers, conductors, hamáls, tándels, sarhangs and boatmen [a]. Constructi

37. The town and suburbs of Bombay mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolába, together with all land or ground now or which may hereafter be reclaimed from the sea or harbour. Extent.

38. [*Commencement of Act.*] *Repealed by Act XII of 1873.*

BOMBAY ACT No. VII OF 1863.

CONTENTS.

PREAMBLE.
SECTIONS.
1. [*Repealed.*]
2. Power to authorize and guarantee continuance, in perpetuity, of land in certain districts to holders on terms and conditions agreed to.
Exceptions.
Future tenure of lands included in exceptions.
3. Lands to which Act does not apply.
4, 5. [*Repealed.*]
6. Lands continued under section 2, clause 1, to be heritable and transferable property of holders subject to fixed annual payment to Government.
Rules for ascertaining amount of assessment.
7. Settlement under section 6 as regards right to levy annual quit-rent-binding on rightful owner as well as land-holder.
Saving of rights and remedies of rightful owner, his heirs and assigns, against holder, his heirs or assigns.
8. On proof of adjudication of title, holder exempt from quit-rent and from further inquiry into title.
Proviso.
9. Collector may serve notice on holder calling on him to state whether he is willing to accept settlement or demands formal inquiry into title.
Language and form of notice.
On whom to be served.
Service when persons not resident within district.
Service when several persons hold lands jointly.
Service when holder known to reside in other district.

[a] Portion repealed by Bom. Act III of 1886 is omitted.

SECTIONS.

Service when no person acts for holder who cannot be found.
Holder making no answer for six months deemed to have dispensed with inquiry.
If no holder or owner discovered, land to be fully assessed.
When sufficiency of service of notice or of reply thereto disputed.
10. Conduct of inquiry, when claimed.
Land held in excess of that to which title is established to be fully assessed.
Effect of exemption not being established.
11. When holders demand trial and adjudication, deposits to be made and security given.
Refund of deposits and assessment, with interest, if holder prove title.
Full amount of land-revenue levied if holder fail to prove title.
12. Inquiry by whom to be held.
13. Steps to be taken by claimant demanding inquiry.
On failure to comply with requirements of clause 1, claim to be disallowed.
Collector to file papers for trial by himself, or forward them to other officer.
Time of trial to be fixed.
Notice thereof to claimant.
14. Burden of proof of title on claimant demanding inquiry.
15. Claimant allowed benefit of evidence in Government records in custody of public officer.
16. Trying authority not bound to admit in evidence certain sanads.
17. Code of Civil Procedure applied to service of summons on, and attendance and examination of, witnesses.
Office of Collector a Civil Court.
18. Language of record of proceedings.
Translation of decision to be given to claimant.
Court-fees Act applied.
19. Decision in favour of continuance of exemption to be final.
Appeal by claimant from adverse decision.
Refund if appeal succeed.
Forfeiture by claimant producing in appeal new evidence not produced at original trial.
Court-fees Act applied.
Bar to setting aside Collector's decision.
20. When exemption claimed under sanad, &c., may be admitted in terms of grant.
Officers recognized as authorized to grant or revoke sanads, &c.
21. Admission of claims to exemption in virtue of prescription.
22. Conditions on which admitted prescriptive title to continue to be recognized.
23. Prescriptive title when not admitted.
24. Sanad, etc., of prescriptive enjoyment not sufficient title in so far as exemption annulled by order issued by present or former Government, &c.
Deed or enjoyment under recognized tenure when not sufficient title.
Title when affected only to extent of assessment made and realized.

SECTIONS.

25. Adoptions when not admitted.
26. Application of sections 20 to 25.
27. [*Repealed.*]
28. Appeal from proceedings of officers making settlement.
29. [*Repealed.*]
30. Quit-rents how levied.
31. Power to enter lands to measure or assess same.
32. Interpretation-clause.

SCHEDULE.

BOMBAY ACT No. VII OF 1863[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 2nd July, 1863.*)

An Act for the summary settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI of 1852 [b] of the Council of India.

Preamble.

WHEREAS in districts which are not subject to the operation of Act XI of 1852 [b] it is expedient to provide, with certain exceptions, for the summary settlement of all claims to hold land, wholly or partially exempt from payment of land-revenue, and for regulating the terms on which such exemption shall be recognized in future so as to preclude all doubt in regard to the relative rights of Government and the holders of such lands, and further to make provision for the exceptions aforesaid; It is hereby enacted :—

1.—[*Repeal.*] *Repealed by Act XII of 1873.*

Power to authorize and guarantee continuance, in perpetuity, of land in certain districts to holders on terms and conditions agreed to.

2. *Clause 1st.*—When the holders of lands in any of the said districts (except as is excepted in clause 2 of this section), held either wholly or partially exempt from the payment of Government land-revenue, shall consent to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee by sanad the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms, and subject to the said conditions.

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[a] As to the application of Bom. Act VII of 1863, see Bom. Act V of 1879, s. 127, *infra*, and, where that Act is not in force, see Bom. Act IV of 1868.

[b] Printed in Vol. I of this Code, p. 60.

Exceptions.

Clause 2nd.—The excepted cases to which the authority of adjustment and guarantee vested in the Governor in Council by this provision shall not extend are as follows :—

1st—lands held under treaty :

2nd—lands granted or held as saranjám, or on a similar political tenure :

3rd—lands held for service :

4th—lands already formally adjudicated to be not continuable hereditarily.

Future tenure of lands included in exceptions.

Clause 3rd.—*1st*—Lands held under treaty shall continue to be held according to the terms of such treaty.

2nd—Lands granted or held as saranjám, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms, as Government, on political considerations, may, from time to time, see fit to determine.

Cord: & Rules. p. 181.

3rd—Lands held for service shall be resumable or continuable under such general rules as Government may think proper, from time to time, to lay down.

4th—Lands already formally adjudicated to be not continuable hereditarily shall continue to be held according to the decision passed in each case.

Clause 4th.—[*Repealed by Act X of 1876.*]

Lands to which Act does not apply.

3. This Act shall not apply to lands which, in villages held on táluqdárí, bhágdárí, narwádárí, khotí or other similar tenure, may have been partially or wholly alienated by the present or former holders of the said villages or by any one of them; and, in the event of the management of such villages being at any time resumed by Government, all land so alienated shall revert to Government unaffected by the acts of the holders or any of them, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals.

4, 5.—[*Commutation of cesses, &c., and of occasional assessments.*] *Repealed (locally) by Bom. Act V of 1879.*

Lands continued under section 2, clause 1, to be heritable and transferable property of holders, subject to fixed annual

6. When the Governor in Council shall, under clause 1 of section 2, finally authorize and guarantee the continuance, in perpetuity, to the holders, their heirs and assigns, of land wholly or partially exempt from the ordinary payment of annual land-revenue, the said lands shall (subject to the enactments contained in section 7 [a]) be the heritable and transferable property of the said holders, their heirs and assigns, without restriction as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued,

[a] Words repealed by Bom. Act III of 1886 are omitted.

in perpetuity, subject to a fixed annual payment to Government, calculated at the rate of two annas for each rupee of the assessment, which assessment shall be ascertainable under the following rules: payment to Government.

Rule 1.—The assessment of lands other than those specified in rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and, with respect to lands which have not yet been assessed by that revenue-survey, shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands, which shall be final: and, in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment. Rules for ascertaining amount of assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not heretofore assessed by such revenue-survey, for the purpose of fixing and making such assessment thereof.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey rules shall be in the discretion of the Revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said Revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a júdí, salámí or other quit-rent or land-tax, under whatever denomination, is already paid to Government or may be payable to Government under the sections last preceding, instead of being liable to only one-eighth of the assessment, shall, in addition to the annual amount of such júdí, salámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent equal to one-eighth of the sum by which the annual or average annual amount of such júdí, salámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent imposed under this section (section 6) shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save in so far as is above in rule 1 of this section (section 6) provided to

the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder, even if in excess of the original alienation, shall be continued according to the provisions of this section (section 6) and the rules thereunto annexed, and subject to the enactments contained in section 7.

Settlement under section 6, as regards right to levy annual quit-rent, binding on rightful owner, as well as landholder. Saving of rights and remedies of rightful owner, his heirs and assigns, against holder, his heirs or assigns.

7. Any settlement made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue in accordance with section 6 [a], and the rules annexed to the said section, shall, so far as the right of Government to levy the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

Provided always that the said rightful owner, his heirs and assigns, shall not by this Act, or any thing therein contained, be deprived of any rights or remedies [b] to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof, if this Act had not been passed; and in the event of the rightful owner, his heirs or assigns, recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or settlement made by the Governor in Council under or in accordance with sections 2 and 6 [a], and the rules annexed to the said section 6, with respect to the said lands, while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

On proof of adjudication of title, holder exempt from quit-rent and from further inquiry into title.

8. Whenever a holder of alienated lands, on being called upon, under the rules to be hereinafter enacted, to declare if he consents to the quit-rent described in section 6, shall plead that his title has already been formally adjudicated, then on proof of such adjudication, and provided the case do not fall under case 4 of clause 2, section 2, the said holder shall be exempt both from liability to the said quit-rent, and from any further inquiry into title:

Proviso.

Provided, however, that, if the said holder, for the purpose of enlarging the scope of the former adjudication, or for other reason, shall apply to have his holding brought under the settlement described in the second and following sections [a], he shall be permitted to do so: and the lands shall thenceforth be held with all the privileges conferred by the said settlement and subject to all its conditions as if no previous adjudication had been made.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Words repealed by Act XII of 1876 are omitted.

(*Sec. 9.*)

9. *Clause 1st.*—In order to ascertain whether a holder of lands, wholly or partially exempt from payment of land-revenue, desires to accept the settlement described in sections 6 and 7 [a], it shall be lawful for the Collector of each [a] district, or for any other officer duly authorized by him, to serve or to cause to be served a notice in writing upon the holder of such lands, calling upon him to state whether he is willing to accept and abide by the settlement aforesaid, or whether he demands formal inquiry into his title.

Collector may serve notice on holder calling on him to state whether he is willing to accept settlement or demands formal inquiry into title.

Clause 2nd.—The notice shall be in the prevailing language of the [a] district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

Language and form of notice;

Clause 3rd.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the district [b].

on whom to be served.

Clause 4th.—If such persons as last aforesaid be not resident within the district [b], the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when persons not resident within district.

Clause 5th.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when several persons hold lands jointly.

Clause 6th.—If the holder be known to reside in another district [b] of the Bombay Presidency, and if there be no person acting for him in the district [b] in which the lands are situate, the notice shall be sent to the Collector of such other district [b] and served or caused to be served by him.

Service when holder known to reside in other district.

Clause 7th.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any) and a copy of such notice shall be posted in the office of the Collector and of the chief Revenue-officer of the táluqá or other sub-division of the district [b], and in the chaurí or most public place in the village where the lands are situate.

Service when no person acts for holder who cannot be found.

Clause 8th.—If within six [a] months after the service of such notice in manner aforesaid the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he declines the settlement, and demands an inquiry into the title to such exemption as afore-

Holder making no answer for six months, deemed to have dispensed with inquiry.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] "District" was substituted for "collectorate" by Bom. Act III of 1886.

said, he shall be deemed to have finally dispensed with such inquiry, and the lands shall be dealt with under sections 2 and 6 [a] and the rules annexed to said section 6.

If no holder or owner discovered, land to be fully assessed.

If no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall within the period allowed by the law of limitations appear and prove his title to it.

When sufficiency of service of notice or of reply thereto disputed.

Clause 9th.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, or of any such reply as last aforesaid, or as to its meaning, or as to its having been given within the time required by this Act, the matter so in dispute shall be inquired into by the officer appointed under section 12, and the decision of such officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [b] or elsewhere.

Except that in any case in which the notice has been served by the officer making an inquiry under this section, an appeal against his decision as to the sufficiency of such notice shall lie within thirty days to the [a] Commissioner [a], whose decision shall be final.

Conduct of inquiry, when claimed.

10. *Clause 1st.*—In the event of the holder upon whom notice has been served as last aforesaid claiming inquiry, such inquiry shall be conducted under the rules and according to the principles hereinafter enacted.

Land held in excess of that to which title is established to be fully assessed.

Clause 2nd.—The establishment of a title to exemption shall not preclude the levy of full assessment on all land ascertained to be held in excess of that to which a title is established, and such excess shall forthwith be fully assessed.

Effect of exemption not being established.

Clause 3rd.—In the event, upon such inquiry as aforesaid, of there being a failure by the holder to establish a title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment.

When holders demand trial and adjudication, deposits to be made and security given.

11. *Clause 1st.*—When the holders of lands, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 10 [a], they shall be required to deposit forthwith in the Collector's treasury, or the treasury of the tâluqá in which the lands are situated, a sum equal to one-eighth part of the annual assessment of the land, ascertainable according to rules 1 and 2 of section 6 [a],

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Words repealed by Act XII of 1876 are omitted.

and thereafter to continue to pay annually an eighth of the said assessment as it becomes due from the date of such demand for trial until the date of such adjudication, and to furnish satisfactory security for the payment of the remaining seven-eighths thereof, in case of their failure to prove the title to exemption asserted by them, and, in default of their making such deposits and furnishing such satisfactory security, the full assessment of the land, which is to be the subject of inquiry, shall be levied, pending the adjudication.

Refund of deposits and assessment, with interest, if holder prove title.

Clause 2nd.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of all deposits made and assessment levied under the provisions of this section pending such inquiry as aforesaid, and to interest thereon at the rate of five per cent. per annum.

Full amount of land-revenue levied if holder fail to prove title.

Clause 3rd.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date of the holder's demand for trial shall be levied from the said holder and his security, or from either of them, any sums deposited or levied pending adjudication as aforesaid being taken in account of the same.

Inquiry by whom to be held.

12. When an inquiry is claimed under the provisions of section 10[a], such inquiry shall be held before the Collector[a], or, when specially authorized by Government on that behalf, by any Assistant or Deputy Collector.

Steps to be taken by claimant demanding inquiry.

13. When any claimant shall demand an inquiry as aforesaid, he shall within two months of notifying his intention to that effect furnish the deposit and security required in such cases by section 11[a], and forward to the office of the Collector of the district a written statement, setting forth in detail the grounds on which the claim to exemption is founded, accompanied by copies of the original documents, if any, which he wishes to produce in support of the claim, and a list of such other evidence, whether written or oral, as he may desire to have exhibited; and no further evidence beyond such documents and witnesses as may be specifically named in the said statement or its accompaniments shall be admitted in support of such claim without reason assigned to the satisfaction of the trying authority.

On failure to comply with requirements of clause 1, claim to be disallowed.

Clause 2nd.—If any claimant shall fail, within the time specified, to comply with the requirements of clause 1 of this section, except from unavoidable causes, to be proved to the satisfaction of the Collector of the district, his claim shall be finally disallowed, and his land shall be fully assessed forthwith.

[a] Words repealed by Bom. Act III of 1886 are omitted.

Collector to file papers for trial by himself, or forward them to other officer. Time of trial to be fixed.

Clause 3rd.—On receipt of the said statement and accompaniments, the Collector shall file the papers for trial before himself or forward them for trial to any officer duly authorized under the section last preceding to hold such inquiry; and the trying officer shall, with reasonable regard to the public convenience and that of all persons interested, fix a time at which the trial shall be proceeded with.

Notice thereof to claimant.

Due notice of the date fixed shall be given to the claimant, who shall be invited to appear in person or by duly constituted agent, with all original documents, on the day appointed for hearing.

Burden of proof of title on claimant demanding inquiry.

14. Whensoever any claimant demands inquiry as aforesaid, the burden of proof of title shall, in every instance, lie and be cast exclusively upon the claimant, and it shall not be lawful for any Civil Court [a] to place the burden of proof upon Government, or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid;

and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided that nothing in this section contained shall disentitle Government or its duly authorized officers to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government or its duly authorized officers desirable or necessary to produce and give such evidence.

Claimant allowed benefit of evidence in Government records in custody of public officer.

15. Any claimant demanding an inquiry into his title shall be allowed the benefit of any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the British Government to have charge of the same, and such public officer shall be bound to search for and to produce the same on application made to him.

Trying authority not bound to admit in evidence certain sanads.

16. The trying authority shall not be bound to admit any sanad as evidence in support of a claim to exemption, which shall not bear an endorsement as having been registered by a Collector before the expiration of one year from the date on which section 42 [b] of Regulation XVII of the Bombay Code of 1827 came into force, *i.e.*, the first September of that year.

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[a] Words repealed by Act XII of 1876 are omitted.

[b] S. 42 of Bom. Reg. XVII of 1827 was repealed by s. 1 of this Act.

17. *Clause 1st.*—For the conduct of the inquiry, the rules of the Code of Civil Procedure [a] in regard to the service of summons on, and the attendance and examination of, witnesses, whether called by the claimant or on the part of Government, shall be followed, except in so far as may otherwise be specified in this Act; XIV of 1882.

Code of Civil Procedure applied to service of summons on, and attendance and examination of, witnesses.

and the office of the Collector or other trying authority shall, for the purpose of this inquiry, be constituted a Court of civil judicature as contemplated by the said Code.

Office of Collector a Civil Court.

18. The Collector or other trying authority shall keep a record of his proceedings in the language generally spoken in the zila.

Language of record of proceedings.

He shall also record in English his decision, with a full statement of the grounds on which it is passed; and a translation of such decision and statement shall, at the close of the inquiry, be given to the claimant or party attending on his behalf.

Translation of decision to be given to claimant.

Clause 2nd.—Except in regard to the translation last aforesaid, and to the statement with accompaniments described in section 13, clause 1, the provisions of [b] the Court-fees Act, 1870 [b], shall be held applicable to all petitions or other papers presented by or on behalf of the claimant, and the cost of all stamps so required shall be borne wholly by the said claimant. VII of 1870.

Court-fees Act applied.

19. *Clause 1st.*—If the decision of the Collector or trying authority be in favour of the continuance of the exemption or any portion thereof, such exemption shall be admitted in terms of the decision, which shall be final.

Decision in favour of continuance of exemption to be final.

Clause 2nd.—If the decision be against the right of the claimant to the total or partial exemption claimed, the claimant shall be at liberty to appeal to the Zila Court within ninety days from the date of that decision: provided that the annual value of the exemption decided against be rupees fifty or upwards and that proceedings under section 10, clause 3, shall not in any case be stayed pending the result of such appeal.

Appeal by claimant from adverse decision.

Clause 3rd.—If the result of the appeal be in favour of the claim, the amount which may have been levied under section 10, clause 3, shall be refunded.

Refund if appeal succeed.

Clause 4th.—If any evidence, oral or documentary, not produced before the Collector or trying authority, be admitted in appeal without the claimant showing sufficient cause why such evidence was not previously produced, and

Forfeiture by claimant producing in appeal new

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[a] This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1890, published by the Legislative Department.)

[b-b] This reference was substituted for the original reference by Act XVI of 1895. For Act VII of 1870 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.

evidence not produced at original trial.

proving that such cause was assigned to the Collector, or adducing good reason for its not having been so assigned, the said claimant shall forfeit, even if the appeal be successful, all sums which may have been levied from him under section 10.

Court-fees Act applied.

Clause 5th.—The provisions of [a]the Court-fees Act, 1870[a], shall be applicable to all proceedings under appeal. VII of 1870.

Bar to setting aside Collector's decision.

Clause 6th.—The decision of the Collector or trying authority shall not be liable to be set aside on appeal, on account of want of form or on any other technical ground.

When exemption claimed under sanad, etc., may be admitted in terms of grant.

20. *Clause 1st.*—When exemption is claimed under a sanad or other writing granted by the present or any former Government, or by any of their officers possessing authority to grant the same, exemption shall be admitted in terms of the grant, unless evidence be forthcoming to show that the terms of such grant did not take effect or were subsequently modified, cancelled or revoked by competent authority.

Officers recognized as authorized to grant or revoke sanads, etc.

Clause 2nd.—The public officers specified in the [b] schedule are recognized to have possessed authority under former Governments to grant or revoke sanads or other writings exempting land either wholly or partially from the payment of land-revenue.

Admission of claims to exemption in virtue of prescription.

21. Claims to exemption from payment of land-revenue, in virtue of prescription, shall be admitted under the following circumstances :—

Clause 1st.—When land situated in districts ceded by or conquered from the Peshwa after 1803 is proved to have been held by any person, his heirs or others deriving right from him, wholly or partially exempt from payment of land-revenue, under a tenure recognized by the custom of the country, for sixty years in succession next preceding the date of this Act; or when land situated in any other district is proved to have been held in like manner for thirty years as aforesaid.

Clause 2nd.—Provided, however, that, whenever exemption has been enjoyed under a sanad or other writing, no title by prescription shall be admitted unless the full period required under the last preceding clause shall have lapsed subsequent to the expiry of the title under the sanad or writing aforesaid.

Clause 3rd.—And that in no case shall a title to prescription be admitted in respect to Government lands alienated since the British Government obtained possession of the country, and without its permission.

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[a] This reference was substituted for the original reference by Act XVI of 1895. For Act VII of 1870 see the revised edition, as modified up to 1st July, 1891, published by the Legislative Department.

[b] The word repealed by Bom. Act III of 1886 is omitted.

Clause 4th.—And further, that the exemption during the periods of sixty and thirty years, respectively, as detailed in clause 1 of this section, be proved to have been enjoyed in strict conformity with the conditions of the recognized tenure under which it is claimed.

22. A prescriptive title admitted under the preceding section shall continue to be recognized only in conformity with the conditions of the tenure under which the exemption has been hitherto enjoyed.

Conditions on which admitted prescriptive title to continue to be recognized.

23. A prescriptive title under section 21 shall not be admitted in respect to any land held for service, or on a tenure implying an obligation of service, whether such service be performed or not.

Prescriptive title when not admitted.

24. *Clause 1st.*—A sanad or other writing under section 20, of prescriptive enjoyment under a recognized tenure as described in section 21, shall not be considered a sufficient title, in so far as the exemption has been wholly or partially annulled by an order issued by the present or any former Government, or by any public officer possessed under a former Government, of full and sufficient authority to grant deeds exempting lands from the payment of public revenue or so far as the land has been assessed under an order not subsequently recalled, issued by any of the said public officers and such assessment has been realized.

Sanad, etc., prescriptive of joyment not sufficient title in so far as exemption annulled by order issued by present or former Government, etc.

Clause 2nd.—Nor shall such a deed or writing, or such enjoyment under a recognized tenure, be considered as a sufficient title, if the land has been subsequently assessed for the period of twelve (12) years like other land of the same description enjoying no exemption, and the assessment has been realized but without prejudice to any suit filed in support of the title to exemption before the completion of the said period.

Deed or enjoyment under recognized tenure when not sufficient title.

Clause 3rd.—And, where the assessment so levied for twelve (12) years has not been to the extent of that imposed on land of the same description enjoying no exemption, such assessment shall affect the title only to the extent of the assessment so made and realized.

Title when affected only to extent of assessment made and realized.

25. Adoptions unrecognized by the present or former Government or by one of their public officers possessed of competent authority shall not be admitted in any cases in which a claim to exemption is founded on a grant limiting succession to lineal descent.

Adoptions when not admitted.

26. The provisions of sections 20 to 25 shall be of general application in all cases in which inquiry may have to be made, and shall not be confined to cases in which inquiry may have been demanded under section 10 [a].

Application of sections 20 to 25.

[a] Words repealed by Bom. Act III of 1886 are omitted.

27.—[*Pending proceedings.*] *Repealed by Act XII of 1873.*

Appeal from proceedings of officers making settlement.

28. When any settlement of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government under this Act, [a] any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such settlement shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be cognizable by any other authority.

29.—[*Bar of suits against Government officers.*] *Repealed by Act X of 1876.*

Quit-rents how levied.

30. All quit-rents payable under this Act shall be levied in the manner in which ordinary land-revenue is recoverable, and the claim of Government to such quit-rents shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment, or otherwise howsoever, against the lands or the holder or holders thereof.

Power to enter lands to measure or assess same.

31. Whenever it shall be necessary either to measure or to assess any lands in order to give effect to any of the provisions of this Act, it shall be lawful for the Collector or officer duly authorized by him to enter upon the same at any time and from time to time, for the purpose of making an assessment or assessments thereof.

Interpretation-clause.

32. (*A.*) [*Number and gender.*] *Repealed by Bom. Act III of 1886.*

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description:

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations the existence of which shall be determined by the Government:

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act as to whether or not any lands are lands held for service:

[a] Words repealed by Act X of 1876 are omitted.

(*E*) "formal adjudication" shall be held to mean final adjudication under any regulation of the Bombay Government, or final decision by the British Government or some authorized officer thereof:

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who, by himself, his tenants, sub-tenants or agents is in possession of the land held wholly or partially exempt from land-revenue assessment, and shall include a mortgagee in possession as aforesaid. The committee, manager or trustee of any temple, who may be in possession of such lands, shall be considered the holder thereof:

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

SCHEDULE.

(*See Section 20, Clause 2nd.*)

LIST OF OFFICERS WHO, UNDER FORMER GOVERNMENTS, HAD POWER TO CONFER GRANTS EXEMPTING LANDS WHOLLY OR PARTIALLY FROM THE PAYMENT OF PUBLIC REVENUE.

UNDER THE EMPERORS OF DELHI.

Subahdárs of Provinces.

IN THE TERRITORIES THAT WERE SUBJECT TO THE PESHWA.

The Peshwa.

All officers holding the mutálakí seal.

All sarsubahdárs in their districts.

All superior local functionaries acting directly under the Peshwa, without the intervention of any superior authority, if the deeds bear date prior to 1803.

The Gáikwár considered as a sarsubahdár in the Peshwa's territories to the north of the Maihi, during the period that he held them in farm.

IN THE TERRITORIES THAT WERE SUBJECT TO THE GÁIKWÁR.

The Gáikwár.

All officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO SCINDIA.

Scindia.

His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO HOLKAR.

Holkar.

His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO THE NIZAM.

The Nizam.

IN THE DISTRICTS THAT WERE SUBJECT TO THEM.

The Nawáb of Surat.

The Nawáb of Broach.

BOMBAY ACT No. II OF 1864 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 22nd September, 1864.*)

An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.

PREAMBLE. [*Repealed by Act VI of 1884.*]

1 to 14. [*Survey of Steam-vessels.*] *Repealed by Act VI of 1884.*

Sections of Merchant Shipping Act, 1854, applied to steam-vessels proceeding to sea from ports in Bombay.

15. It is hereby declared that sections 292, 293 and 294 of the Merchant Shipping Act (17 & 18 Vict., chap. 104 [b]), and Schedule S of that Act are and shall be applicable to all steam-vessels proceeding to sea from any port or place in the Presidency of Bombay or its Dependencies, and that, in calculating the penalties mentioned in the said section 293, ten rupees be taken as the equivalent for one pound sterling.

16, 17.—[*Trial of Offences ; Recovery of penalties and fees ; Interpretation.*] *Repealed by Act VI of 1884.*

SCHEDULES A AND B.

(*Form of Certificate ; Fees.*)

[*Repealed by Act VI of 1884.*]

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[a] Bom. Act II of 1864 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiii.

[b] This Act is printed in the Collection of Statutes relating to India, Ed. 1881, Vol. I, p. 447. It has been repealed by the Merchant Shipping Act, 1894 (57 & 58 Vict., cap. 60), but see saving in section 745 (c) of that Act.

BOMBAY ACT No. I OF 1865 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st January, 1865.*)

An Act to provide for the survey, demarcation, assessment and administration of lands held under Government, in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same.

PREAMBLE. [*Repealed, locally, by Bom. Act V of 1879.*]

1 to 36. [*Repealed, locally, by Bom. Act V of 1879.*]

Leases for period for which settlement guaranteed may be granted to Khots in Ratnagiri and in certain táluqás of the Táná collectorate.

[b] **37.** Whenever, in the Ratnagiri collectorate and in the Raigarh, Rájpurí and Sanksí táluqás of the Táná collectorate, the survey-settlement is introduced into villages or estates held by Khots, it shall be competent for the Superintendent of Survey or Settlement-officer, with the sanction of the Governor in Council, to grant the Khot a lease for the full period for which the settlement may be guaranteed, in place of the annual agreements under which such villages have hitherto been held, and, further, the provisions of section 36 [c] in respect to the right of permanent occupancy at the expiration of a settlement-lease shall hold good in regard to those villages or estates.

Power to fix demands of Khot on tenant at time of survey.

[b] **38.** It shall also be competent to such officer, with the sanction of the Governor in Council, to fix the demands of the Khot on the tenant at the time of the general survey of a district, and the terms thus fixed shall hold good for the period for which the settlement may be sanctioned.

Proviso.

But this limitation of demand on the tenant shall not confer on him any right of transfer by sale, mortgage or otherwise, where such did not exist before, and shall not affect the right of the Khot to the reversion of all lands resigned by his tenant during the currency of the general lease.

39 to 51. [*Repealed, locally, by Bom. Act V of 1879.*]

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[a] Bom. Act I of 1865 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the districts of Thar and Parkar and the Upper Sindh Frontier—see Appendix to Vol. I of this Code, p. xxxiii.

Bom. Act I of 1865 was declared applicable to towns and cities by Bom. Act IV of 1868, which, however, has been repealed by Bom. Act V of 1879, in areas in which the latter Act is in force.

Bom. Act I of 1875 (repealed, locally, by Bom. Act V of 1879) is to be read with and taken and construed as part of Bom. Act I of 1865—see s. 3 of the Act of 1875.

[b] Ss. 37 and 38 of Bom. Act I of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which Bom. Act I of 1880 extends or is extended—see s. 2 of the latter Act, *infra*.

[c] S. 3 was repealed (locally) by Bom. Act V of 1879.

BOMBAY ACT No. III OF 1865[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 31st July, 1865.*)

An Act to amend Act XXI of 1848[b] (*for avoiding Wagers*).

Preamble.

WHEREAS it is expedient, so far as regards the Presidency of Bombay, to amend Act XXI of 1848 [b] (*for avoiding wagers*); It is enacted as follows:—

Contracts declared null and avoid.

1. All contracts, whether by speaking, writing or otherwise, knowingly made to further or assist the entering into, effecting or carrying out agreements by way of gaming or wagering, and all contracts by way of security or guarantee for the performance of such agreements or contracts, shall be null and void;

No suit allowed on such contracts.

and no suit shall be allowed in any Court of Justice for recovering any sum of money paid or payable in respect of any such contract or contracts, or any such agreement or agreements as aforesaid.

Nor for commission or brokerage, etc., in respect of agreements by way of gaming or wagering.

2. No suit shall be allowed in any Court of Justice for recovering any commission, brokerage, fee or reward in respect of the knowingly effecting or carrying out, or of the knowingly aiding in effecting or in carrying out, or otherwise claimed or claimable in respect of, any such agreement by way of gaming or wagering or any such contract as aforesaid, whether the plaintiff in such suit be or be not a party to such last-mentioned agreement or contract, or for recovering any sum of money knowingly paid or payable on account of any persons by way of commission, brokerage, fee or reward in respect of any such agreement by way of gaming or wagering or contract as aforesaid.

Payments for which guardian and personal representative not to be allowed credit.

3. No guardian, executor, administrator, heir or personal representative of any deceased person shall be entitled to or allowed credit in his accounts for or in respect of any payment by him on behalf of such deceased person (or in the case of a guardian, on behalf of any minor), in respect of any such agreement or agreements as are mentioned in section 1 of Act XXI of 1848 [b] or in respect of any such contract or contracts, commission, brokerage, fee or reward, or money paid or payable in respect thereof as are respectively mentioned in the first and second sections of this Act.

4. [*Construction of Act.*] *Repealed by Act XVI of 1895.*

5. [*Number and gender.*] *Repealed by Bombay Act III of 1886.*

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[a] Bom. Act III of 1865 is void so far as it purports to affect the High Court. It has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiii.

[b] Act XXI of 1848 was repealed by Act IX of 1872, s. 1 (printed, General Acts, 1867-76, Ed. 1887, p. 319), but see the saving in that section.

BOMBAY ACT No. VII OF 1865.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th December, 1865.*)

An Act to extend the provisions of Act of the Governor General of India in Council, No. XX of 1863 [a], to the district of Kanára in the Bombay Presidency.

WHEREAS it is expedient to extend the provisions of Act No. XX of 1863 [a] (*An Act to enable the Government to divest itself of the management of religious endowments*) to the district of Kanára in the Bombay Presidency; It is enacted as follows:— Preamble.

1. The provisions of Act No. XX of 1863 [a] are hereby extended to the district of Kanára in the Bombay Presidency. Act XX of 1863 extended to Kanára.

2. A notice of the appointment of the committee referred to in section 7 of Act XX of 1863 [a] shall, if posted at the mamlatdar's office, be equivalent to a notification of such appointment in the official Gazette. Notice of appointment of committee.

3. The words "Board" and "Board of Revenue," as used throughout Act XX of 1863 [a], shall, for the purposes of this Act, be held to mean the Revenue Commissioner of the division. Interpretation-clause.

BOMBAY ACT No. VIII OF 1865 [b].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 27th December, 1865.*)

An Act to authorize taxation in the Province of Sindh for objects of public local utility and improvement.

WHEREAS it is expedient to provide funds for local works of public utility and improvement [c]; It is enacted as follows:— Preamble.

1. It shall be lawful to levy for the purposes of this Act from all lands in the Province of Sindh a cess not exceeding one anna on every rupee Levy of local cess on lands.

[a] Printed, General Acts, 1834-66, Ed. 1887, p. 384.

[b] It is enacted in Bom. Act I of 1884, s. 2 (printed in Vol. III of this Code), that this Act may be called "The Sindh Local Funds Act, 1865."

The net proceeds of the cess on land and of the shop-tax levied under Bom. Act VIII of 1865 are to be credited to the Local Fund constituted by Bom. Act I of 1884—see s. 44 of that Act in Vol. III of this Code.

[c] Words repealed by Bom. Act I of 1884 are omitted.

assessable to the ordinary land-revenue, and such cess shall be levied in the same manner, and under the same rules, as the ordinary land-revenue :

Levy of cess on settled lands.

Provided that in all cases where an assessment of land-revenue has been authoritatively fixed for a term of years before this Act comes into operation and no cess has been theretofore levied upon such assessment, the cess authorized by this Act to be levied shall not be levied until the expiration of such term :

Cess on lands hereafter settled to be imposed at time of settlement.

Provided also that, in respect of lands of which a settlement for a term of years may be made after this Act comes into operation, such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

Cess on alienated lands.

2. It shall also be lawful, in the case of jágír and other alienated lands, to levy such cess at the rate of [a] five per centum on the assessable value of those lands, instead of the rate hereinbefore directed to be levied.

Levy of cess from farmers of land or saír revenue.

3. It shall also be lawful to levy a cess not exceeding one anna on every rupee leviable under the head of land or saír revenue from all farmers of land or saír revenue who may take farms subsequently to this Act coming into operation.

Levy of shop-tax.

4. It shall also be lawful to levy a shop-tax at rates according to classes to be approved and notified by the Commissioner in Sindh from time to time, but in no case exceeding rupees ten per annum for each shop, and such tax shall be leviable from all persons who carry on any profession, trade or employment for gain, and use a shop or office for the purpose, and shall be enforced in the same manner and under the same rules as are provided for the levy of land-revenue, so far as applicable.

Cess and tax by whom levied and how collected.

5. The cess and tax to be levied under this Act shall be levied by the Commissioner in Sindh under the orders of the Governor in Council of Bombay, and shall be collected by such officers as the said Commissioner, acting under such orders, shall direct to collect the said cess and tax.

6 to 8. [*Assignment of portion of taxes to local fund committees ; payment of residue to Government ; account to be kept.*] *Repealed by Bom. Act I of 1884.*

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[a] "Of" was substituted for the original words by Bom. Act I of 1884, s. 76 printed in Vol. III of this Code.

(*Secs. 1-2.*)

BOMBAY ACT No. VII OF 1866 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 31st May, 1866.*)

An Act to limit the liability of a son, grandson or heir of a deceased Hindú for the debts of his ancestor, and the liability of the second husband of a Hindú widow for the debts of her deceased husband, and otherwise to amend the law of debtor and creditor.

Preamble.

WHEREAS, according to the law in force, as applied to Hindús by the High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, no son or grandson of a deceased Hindú is liable for the debts of his ancestor merely by reason of his being such son or grandson, and no son, grandson or other heir of a deceased Hindú, who has received assets of the deceased, is merely from that circumstance liable for the debts of his ancestor beyond the amount of the assets received, and no person marrying a Hindú widow is liable in consequence of such marriage for the debts of her former or any prior deceased husband;

and whereas a different law is applied to Hindús by the Civil Courts which exercise jurisdiction in places beyond the local limits of the ordinary original civil jurisdiction of the said High Court, and it is expedient to amend the law as applied by such other Courts, and to make the law in that respect uniform throughout the Presidency of Bombay;

and whereas it is also expedient to limit the liability of a Hindú for a family-debt contracted when he was unborn or under twenty-one years of age;

It is hereby enacted and declared as follows:—

Hindú son or grandson not liable as such for debt of ancestor.

1. No son or grandson of a deceased Hindú shall, merely by reason of his being such son or grandson, be liable to be sued for any of the debts of such deceased Hindú.

Heir to be liable as representative of deceased ancestor only to extent of assets received.

2. No son, grandson or heir of a deceased Hindú, who has by himself or his agent received or taken possession of any property belonging to the deceased, shall be liable personally for any of the debts of the deceased, merely by reason of his having so received or taken possession of any such property; but the liability of such son, grandson or heir, in respect of such debts, shall be as the representative of such deceased Hindú, and shall be limited to paying the sum out of and to the extent of the property of the deceased which such son, grandson or heir, or any other person by his order or to his use, has received or taken possession of as aforesaid, and which remains unapplied:

[a] Bom. Act VII of 1866 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiii.

Liability in respect of assets received and not applied.

Provided that, if any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such son, grandson or heir, he shall be liable personally for such debts to the extent of the property not duly applied by him.

3.—[*Pending suits.*] *Repealed by Act XII of 1873.*

Husband of Hindú widow not liable for debt of deceased former husband.

4. No person who has married a Hindú widow shall, merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow [a].

Liability of member of undivided Hindú family for family-debts contracted during his minority.

5. Where a debt is contracted after this Act shall come into operation by one or more members of an undivided Hindú family, under such circumstances as that the same forms the debt of the undivided family, no member of such undivided family, who is unborn or under the age of twenty-one years at the time of the contracting of such debt, shall be liable personally to pay the same, but such member shall only be liable to pay the same out of and to the extent of the property of the undivided Hindú family, and of the separate property, if any, belonging to any deceased members of the undivided family who were above the age of twenty-one years at the time of the contracting the same, received or taken possession of by such member or any other person by his order or to his use and remaining unapplied, unless any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such member, in which case he shall be further liable personally for such debt to the extent of the property not duly applied by him.

Saving of liability of surviving member of undivided Hindú family.

6. Except as provided in section 5 [b], nothing in this Act contained shall be construed as limiting or affecting the liability of any person as surviving member or one of the surviving members of an undivided Hindú family for any debt contracted under such circumstances as that the surviving member or surviving members of such undivided family is or are by the law now in force liable to pay the same.

Interpretation.

7. The term "debts," as used in this Act, shall be construed to include all liabilities arising out of any claims which could or might be enforced against a deceased Hindú himself if living, and for which a suit would lie against his representative [b].

8.—[*Commencement of Act.*] *Repealed by Act XII of 1873.*

Short title.

9. This Act may be cited for all purposes as the Bombay Hindú Heirs' Relief Act, 1866.

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[a] Portion repealed by Act XII of 1873 is omitted.
[b] Words repealed by Bom. Act III of 1886 are omitted.

BOMBAY ACT No. VIII OF 1866.

CONTENTS.

PREAMBLE.

SECTIONS.

1. [*Repealed.*]
2. Interpretation-clause.
3. Sellers of poisons to be licensed.
4. Licenses granted in Bombay by Municipal Commissioner, and in mofussil by Collector.
   Form of licenses.
5. Licenses to be of two classes.
   License-fees.
6. Duration of licenses.
   Fee for license granted in second half of year.
7. Renewal of ordinary license.
8. Renewal of special license.
9. License for firm sufficient if taken out by one member.
10. Appropriation of license-fees and fines.
11. Penalty for selling poisons without license.
12. Penalty for refusing to produce license when required.
13. On every sale of poison, particulars to be entered in book by seller, in form in Schedule C.
14. Restrictions as to sale of poisons.
15. Sale of poisons by special licensee to absent purchasers.
16. Poison not to be sold to minor.
17. Provision for colouring arsenic.
18. Penalty for certain offences.
19. Act not to prevent sale of poisons in medicine under medical prescription, or wholesale dealing in poisons.
20. Levy of fines.
    Order for detention on issue of distress-warrant.
    When Magistrate may refrain from issuing distress-warrant.
    Commitment to gaol.
21. Extent.
    Power to declare, in extending Act, by whom duties to be performed, etc.
22. [*Repealed.*]

SCHEDULE A.—VEGETABLE POISONS.
MINERAL POISONS.

SCHEDULE B.—FORM OF ORDINARY (*or Special*) LICENSES FOR THE SALE OF POISONOUS SUBSTANCES.

SCHEDULE C.—FORM OF ENTRY OF SALE OF POISON.

BOMBAY ACT No. VIII OF 1866 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 7th June, 1866.*)

An Act to regulate and restrict the sale of poisons in the Bombay Presidency.

Preamble.

WHEREAS it is expedient to enact one general law relating to the sale of poisonous drugs and deleterious substances in the Bombay Presidency, and to regulate and restrict the sale of such drugs and substances; It is enacted as follows :—

1.—[*Repeal of enactments.*] *Repealed by Act XII of 1873.*

Interpretation-clause.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, that is to say [b]—

the word "poison" denotes the poisonous drugs and deleterious substances specified in Schedule A [b] :

the word "offender" shall include an incorporated association of persons :

the word "Magistrate" denotes, in places within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, a Magistrate of Police, and in places beyond those local limits a person invested with the powers of a Magistrate under [c] the Code of Criminal Procedure, 1882 [b]. X of 1882.

Sellers of poisons to be licensed.

3. [d] No person shall sell any of the poisons specified in [e] Schedule A [b] without holding a license of one or other class as hereinafter provided.

Licenses granted in Bombay by Municipal Commissioner, and in mofussil by Collector.

4. Every license under this Act shall, within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be granted by the Municipal Commissioner for the city of Bomaby, or by some person authorized by him on that behalf, and in places beyond those local limits by the Collector, or by some person authorized by him on that behalf;

Form of licenses.

and every such license may be in the form contained in [e] Schedule B [b], but no license shall authorize a sale except at some place within the limits of the jurisdiction of the officer empowered to grant and granting the same.

Licenses to be of two classes.

5. Licenses shall be of two classes, that is to say, an ordinary license for which a fee of five rupees shall be paid, and a special license for which a fee of fifty rupees shall be paid.

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[a] Bom. Act VIII of 1866 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiii.

[b] Portion repealed by Bom. Act III of 1886 is omitted.

[c] The reference to Act XXV of 1861 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified to 15th December, 1888, published by the Legislative Department.)

[d] Words repealed by Act XII of 1873 are omitted.

[e] The word repealed by Act XVI of 1895 is omitted.

Provided that a person applying for a license under this Act shall not have the option of taking out a special license in lieu of an ordinary license, but it shall be discretionary with the Commissioner or Collector, as the case may be, to determine whether he will grant a special license to the party applying for the same. License-fees.

6. Every license shall have effect and continue in force from the date of the grant thereof until the thirty-first day of December next ensuing, but any person to whom such license shall be granted after the first day of July of any year shall pay only one-half of the fee payable for the same, having regard to the class to which it belongs. Duration of licenses. Fee for license granted in second half of year.

7. Every person to whom an ordinary license shall have been granted and who shall be desirous of continuing to sell any of the poisons specified in Schedule A after the expiration of the said license shall, before its expiration, take out a fresh license for that purpose for the following year, and shall in like manner renew the same from year to year, so long as he shall desire to continue to sell such poisons, and upon each renewal of the license shall pay to the officer granting the same a further fee of five rupees. Renewal of ordinary license.

8. The Commissioner or Collector, as the case may be, may in his discretion grant a fresh special license to any person to whom a special license shall have been granted under this Act, and who shall be desirous of continuing to sell any of the poisons specified in Schedule A after the expiration of such license, and may also renew the special license from year to year so long as the applicant shall desire to continue to sell such poisons, and as often as the Commissioner or Collector shall in his discretion think fit to renew the same: Provided that the application for the grant of a fresh special license or for a renewal of the same be made before the expiration of the current license, and that upon each fresh grant and renewal the applicant shall pay to the officer granting the same a further fee of fifty rupees. Renewal of special license.

9. Where the person taking out a license under this Act shall be the member of a firm or of an incorporated company, it shall not be necessary that any other member of the firm or company shall take out a license to authorize a sale by such firm or company of the poisons specified in Schedule A within the local limits of the jurisdiction of the officer granting such license. License for firm sufficient if taken out by one member.

10. The expenses incurred in carrying out the provisions of this Act in regard to the grant and renewal of licenses shall be paid from the proceeds of the fees, fines and penalties levied under this Act, and the portion of such proceeds remaining after the payment of the said expenses shall, within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be paid annually to the credit of the municipal fund Appropriation of license-fees and fines.

of the city of Bombay, and in places beyond those local limits the balance remaining shall be paid, as to the Collector may seem fit, to the credit of some municipal or local fund of the district for which the licenses issue and the fines and penalties are levied [a]; and the portions so paid shall be available to meet the general expenses chargeable to the said municipal or local funds.

Penalty for selling poisons without license.

11. If any person who is by this Act required to take out a license or renew the same shall sell any of the poisons specified in Schedule A without having duly taken out a license or renewed the same, in accordance with the provisions of this Act, he shall be liable, on conviction before a Magistrate, to be punished for a first offence with fine which may extend to two hundred rupees, and for a second or subsequent offence with fine which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to one year, or with both.

Penalty for refusing to produce license when required.

12. Any person required by this Act to take out a license, who shall without reasonable excuse neglect or refuse to produce and show his license when required to do so by an officer duly empowered in writing by the Municipal Commissioner or by the Collector, as the case may be, to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees.

On every sale of poison, particulars to be entered in book by seller, in form in Schedule C.

13. Every person who shall sell any of the poisons specified in Schedule A shall forthwith, and before the delivery of such poison to the purchaser, enter or cause to be entered, in a fair and regular manner, in a book to be kept by such person for that purpose, in the form set forth in [b] Schedule C [c], or to the like effect,

a statement of such sale, with the name of the poison and quantity thereof so sold, and the purpose for which such poison is required, or stated to be required, and

the day of the month and year of the sale, and the name, place of abode and condition or occupation of the purchaser,

into all which circumstances the person selling such poison is hereby required and authorized to inquire of the purchaser, before the delivery to such purchaser of the poison sold;

and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the

[a] As to crediting of fees, fines and penalties levied under this Act to the Local Fund constituted by Bom. Act I of 1884, see s. 44 (*e*) of the latter Act, printed in Vol. III of this Code.
[b] The word repealed by Act XVI of 1895 is omitted.
[c] Words repealed by Bom. Act III of 1886 are omitted.

words "cannot write,") and, where a witness is hereby required to the sale, such entries shall also be signed by such witness, who shall add his place of abode.

14. No person shall sell any of the poisons specified in Schedule A to any person who is unknown to the person selling such poison, unless the sale be made in the presence of a witness who is known to the person selling the poison, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the poison to the purchaser. Restrictions as to sale of poisons.

15. When the purchaser of any of the poisons specified in Schedule A is absent at the time of sale, it shall be lawful for the holder of a special license under this Act to sell and deliver any of the said poisons in pursuance of the written order of a purchaser, provided such order is received by the special licensee in the ordinary course of business, and is signed by the purchaser, and provided that the handwriting of the purchaser who signs such order is known to the special licensee, and upon every sale under this section the special licensee shall forthwith enter or cause to be entered in a book to be kept by him for the purpose a statement of such sale, with the name of the poison and quantity thereof so sold and the date of sale, and the name and address of the purchaser in pursuance of whose written order the sale is made, and such entries shall in every case be signed by the person making the same. Sale of poisons by special license to absent purchasers.

16. No person shall sell poison to any one who the seller in good faith believes is below the age of eighteen years. Poison not to be sold to minor.

17. No person shall sell any white arsenic in a ground or pounded state unless the same be, before the sale thereof, mixed with soot, indigo or Prussian blue, in the proportion of one ounce of soot or half an ounce of indigo or Prussian blue, at the least, to one pound of the arsenic, and so in proportion for any greater or less quantity: Provision for colouring arsenic.

Provided always that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose, for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than two pounds at any one time.

18. If any person shall sell any of the poisons specified in Schedule A in contravention of any of the provisions of sections 13, 14, 15, 16 or 17 [a], or Penalty for certain offences

if any person purchasing any poison shall give false information to the

[a]. Words repealed by Bom. Act III of 1886 are omitted.

person selling the same in relation to any of the particulars which such last-mentioned person is authorized to enquire into of such purchaser, or

if any person shall sign his name as a witness to a sale of poison to a person unknown to the person so signing as witness,

every person so offending shall, for every such offence, upon conviction for the same before a Magistrate, be liable to a penalty not exceeding two hundred rupees, and, where the person so convicted shall hold a license under this Act, he shall also be liable, by order of the Magistrate, to the forfeiture of his license for the current year.

Act not to prevent sale of poisons in medicine under medical prescription, or wholesale dealing in poisons.

19. Provided that nothing contained in sections 13, [14, 15, 16 or 17 [a] shall be construed to apply to the sale of any poison

when the same is required as medicine according to the written order or prescription of any person who shall be a graduate of medicine in any University, or who shall have obtained the diploma of any public medical examining body, or who holds or has at any time held the appointment of Apothecary under Government, or

upon the personal application of a person known to the seller to be in good repute and practising medicine,

nor to apply to the sale of any poison when the same forms the whole or part of the ingredients of any medicine required to be made up or compounded according to the prescription or upon the personal application of any of the persons in this section above specified,

nor to apply to the sale of poisons by wholesale to retail-dealers upon orders in writing in the ordinary course of wholesale dealing.

Levy of fines.

20. All fines and penalties imposed by a Magistrate under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate.

Order for detention on issue of distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day being not more than eight days from the time of taking such recognizance;

When Magistrate may refrain from issuing distress-warrant.

but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress;

[a] Words repealed by Bom. Act III of 1886 are omitted.

and in such case, or if such warrant shall have been issued, and upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to gaol, there to suffer simple imprisonment for any term not exceeding two months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months where the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount of the fine or penalty. Commitment to gaol.

21. This Act shall not come into operation in any place in the Bombay Presidency except within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay and the places subject to the general Regulations in force in the Presidency, until it shall be extended thereto by an order of the Governor in Council, to be notified in the Government Gazette; Extent.

and it shall be lawful for the Governor in Council, in so extending this Act, to declare by whom the duties assigned by this Act to the Collector shall be performed, and by whom fines and penalties under this Act shall be inflicted in the place to which the Act shall be so extended, and to direct the manner in which the proceeds of the fees, fines and penalties levied under this Act in such place shall be appropriated and expended, and further, by any subsequent order, to suspend, alter or revoke any order passed under this section, provided such suspension, alteration or revocation is made before this Act has by virtue of any prior order come in force in such place. Power to declare, in extending Act, by whom duties to be performed, etc.

22.—[*Commencement of Act.*] *Repealed by Act XII of 1873.*

SCHEDULE A.

(*Referred to in section 3.*)

VEGETABLE POISONS.

Name of poison.	Native name.
Aconite	Bachnág.
Cocculus Indicus	Kákmarí, Kákphúl.
Datura	Dhatúrá.
Henbane	Khorásání Ajwán.
Nux-vomica	Kuchlá and Kajra.
Saint Ignatius' Bean	Papíta.
Calabar Bean.	

(*Schedule A.—Mineral Poisons. Schedule B.—Form of Ordinary (or Special) License for the Sale of Poisonous Substances. Schedule C.—Form of Entry of Sale of Poison.*)

MINERAL POISONS.

Name of poison.	Native name.
White Arsenic	Phatkya Sammul.
	Sammul.
Red Arsenic (Realgar)	Mansíl.
Yellow Arsenic (Orpiment)	Hartál.
Scheele's Green (Arsenite of copper)	Hirwá.
Schweinfurth Green (Aceto-arsenite of copper)	
Corrosive Sublimate	Raskapúr.

SCHEDULE B.

(*Referred to in section 4.*)

FORM OF ORDINARY (*or* SPECIAL, *as the case may be*) LICENSE FOR THE SALE OF POISONOUS SUBSTANCES (*to be in English or a Vernacular language*).

I, *A. B.*, hereby grant an ordinary (*or* special, *as the case may be*) license to *C. D.* (*name of person or company*), to sell, within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay *or* the District of (*as the case may be*), from the date hereof to the thirty-first December next, the poisonous substances specified in Bombay Act No. VIII of 1866. The said *C. D.* will conform to the rules contained in the said Act, on failure whereof this license shall be liable to be forfeited.

(*Signed*) *A. B.*,
Municipal Commissioner (*or* Collector).

Office,

SCHEDULE C.

(*Referred to in section 13.*)

FORM OF ENTRY OF SALE OF POISON (*to be in English or a Vernacular language*).

Date of sale.	Name and surname of purchaser.	Purchaser's place of abode.	Condition or occupation.	Poison sold.	Quantity sold.	Purpose for which required or stated to be required.

Purchaser's signature, or, if purchaser cannot write, his mark to be put for him, and the words "cannot write" added.

Witness' signature and place of abode.

Seller's signature.

BOMBAY ACT No. XII OF 1866.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Sadr Court.
2. District Courts.
3. Jurisdiction of District Court.
4. Subordinate Civil Courts.
5. Jurisdiction of Subordinate Civil Court.
6. Regular appeals to Sadr Court.
7. Applications may be forwarded to Sadr Court by post.
8. Regular appeals to District Court.
9. Removal of Judge of subordinate Civil Court.
10. Appointment and removal of officers of Sadr, District and subordinate Courts.
11. Seal.
12. Certain laws extended to Sindh.
13, 14. [*Repealed.*]
15. Execution of decrees for debt against certain privileged persons.
16. Power to make rules for admission and removal of pleaders; to remove and suspend them.
Publication of rules.
17. Sadr Court to prescribe fees.
Publication of table of fees.
18 to 20. [*Repealed.*]
21. Certain places excepted from operation of Act.
Extension of Act to such places.

SCHEDULE.

BOMBAY ACT No. XII OF 1866.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 11th July, 1866.*)

An Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sindh.

WHEREAS it is expedient to declare by law the constitution of the Courts of civil and criminal judicature in the Province of Sindh, and to provide for the due administration of justice therein; It is declared and enacted as follows:— Preamble.

1. There shall be in the Province of Sindh a Sadr Court, which shall be the highest Court of appeal in civil and criminal matters in the said Province, Sadr Court.

within the meaning of the Codes of Civil [a] and Criminal [b] Procedure. The Sadr Court shall be presided over by a Judge appointed by the Governor of Bombay in Council, and such Judge may also be the Judicial Commissioner of the Province of Sindh. XIV of 1882. X of 1882.

District Courts.

2. There shall be in each district in the Province of Sindh a District Court; and every such Court shall be presided over by a Judge appointed by the Governor of Bombay in Council, by whom only he shall be liable to be suspended or removed.

Jurisdiction of District Court.

3. The District Court shall, within the meaning of the Code of Civil Procedure [a], be the principal Court of original civil jurisdiction in the districts in which it is established, and shall also exercise the jurisdiction vested in the Court of Session by the Code of Criminal Procedure [b], or by any other law for the time being in force in the Province of Sindh. XIV of 1882. X of 1882.

Subordinate Civil Courts.

4. There shall be, in each district in the Province of Sindh, so many subordinate Civil Courts as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct.

Every such Court shall be a subordinate Court of original civil jurisdiction within such limits as the Commissioner in Sindh, with the sanction of the Governor of Bombay in Council, shall from time to time determine, and shall be presided over by a Judge appointed by the Commissioner in Sindh.

Jurisdiction of subordinate Civil Court.

5. Unless otherwise provided by any law for the time being in force, the jurisdiction of every such subordinate Court shall extend to all suits and proceedings of a civil nature wherein the value or subject-matter of the claim shall not exceed five thousand rupees.

Regular appeals to Sadr Court.

6. A regular appeal shall lie from the decisions of the Judge of a District Court in the exercise of his original civil jurisdiction to the Sadr Court, whenever such appeal is allowable under the Code of Civil Procedure [a], or under any other law for the time being in force in the Province of Sindh. XIV of 1882.

Applications may be forwarded to Sadr Court by post.

7. It shall be lawful for the Sadr Court to receive applications forwarded by post, duly registered, and to proceed thereupon in the same manner as if such applications had been presented in person or by pleader, any law to the contrary notwithstanding.

Regular appeals to District Court.

8. A regular appeal shall lie from the decisions of the Judge of a subordinate Court to the District Court of the district within which such subordinate

[a] This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

[b] This reference should now be read as applying to Act X of 1882—see s. 3 of that Act. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

Court is situated, whenever such appeal is allowable under the Code of Civil Procedure [a], or under any other law for the time being in force in the Province of Sindh.

XIV of 1882.

Removal of Judge of subordinate Civil Court.

9. It shall be competent to the Sadr Court to suspend or to remove from office, for misbehaviour or neglect of duty, any Judge of a subordinate Court.

Appointment and removal of officers of Sadr, District and subordinate Courts.

10. It shall be lawful for the Judge of the Sadr Court to appoint to such Court, and for the Judge of a District Court to appoint to such Court and to the subordinate Courts of that district, so many and such officers as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct, and, for misbehaviour or neglect of duty, to suspend or remove any such officer:

Provided that no officer who is in receipt of a monthly salary amounting to thirty rupees shall be removed without the sanction of the Sadr Court:

and provided also that all bailiffs, messengers, peons and ministerial servants of a subordinate Court who receive a monthly salary not exceeding ten rupees shall be appointed by the Judge of such Court, by whom also they may be suspended or removed.

Seal.

11. Every Court shall use a seal on which shall be engraved the title of such Court.

Certain laws extended to Sindh.

12. The provisions of Regulation VIII of 1827 [b] of the Bombay Code (*"A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts"*), and of Act XIX of 1841 [c] (*"An Act for the protection of moveable and immoveable property against wrongful possession in cases of successions"*), [d] are hereby extended to the Province of Sindh.

13, 14. [*Affidavits and affirmations.*] *Repealed by Act XVI of 1895.*

Execution of decrees for debt against certain privileged persons.

15. No decree for payment of debt passed by any Court shall be executed against a defendant who is one of the persons mentioned in the schedule [e], except in such manner as shall be directed in a special order by the Commissioner in Sindh, to whom a copy of the decree and of the application for execution shall be forwarded by the Court in which such application is presented.

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[a] This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

[b] Printed in Vol. I of this Code, p. 11.

[c] Printed, General Acts, 1834-66, Ed. 1887, p. 33.

[d] Portion repealed by Act XII of 1873 is omitted.

[e] Words repealed by Bom. Act III of 1886 are omitted.

Power to make rules for admission and removal of pleaders; to remove and suspend them.

16. It shall be competent to the Sadr Court, with the sanction of the Governor of Bombay in Council, to make rules for the qualification and admission of proper persons to be pleaders in any Court in the Province of Sindh;

and it shall also be competent to the Sadr Court to remove or to suspend from practice, for misbehaviour, any person so admitted to be a pleader.

Publication of rules.

The rules made and sanctioned under this section shall be published in the Government Gazette.

Sadr Court to prescribe fees.

17. The Sadr Court shall from time to time prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of any such Court, and also the fees which shall be payable in any suit or proceeding in any such Court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceeding.

Publication of table of fees.

Tables of the fees so prescribed shall be published in the Government Gazette.

18 to 20.—[*Validation and indemnification; cessation of jurisdiction.*] *Repealed by Act XII of 1873.*

Certain places excepted from operation of Act.

21. Nothing contained in this Act shall be construed to apply to that portion of the Province of Sindh which is now in charge of the Political Superintendent of Thar and Parkar; but all existing rules for the administration of justice in that portion of the said Province shall continue in force in the same manner as if this Act had not been passed:

Extension of Act to such places.

Provided that all or any of the provisions of this Act may, by an order of the Governor of Bombay in Council, to be published in the Government Gazette, be extended to the whole or to any part of the said portion of the Province of Sindh.

SCHEDULE [a].

(*Referred to in section 15.*)

1. His Highness Mír Hussain Alí Khán.
2. His Highness Mír Hassan Alí Khán.
3. His Highness Mír Sher Muhammad Khán.
4. His Highness Mír Imám Baksh Khán.
5. His Highness Mír Alí Madád Khán.
6. His Highness Mír Muhammad Khán.
7. His Highness Mír Shah Nawáz Khán.

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[a] This schedule was substituted for the original schedule by Bom. Act III of 1868, s. 1 For power to amend the schedule by notification, see s. 2 of the same Act, *infra*, p. 132.

8. His Highness Mír Abdul Hussain Khán.
9. His Highness Mír Shah Muhammad Khán.
10. His Highness Mír Khán Muhammad Khán.
11. Widow of H. H. Mír Núr Muhammad Khán, daughter of H. H. Mír Fateh Alí Khán.
12. Widow (second wife) of H. H. Mír Mír Muhammad Khán, daughter of H. H. Mír Fateh Alí Khán.
13. Wife of H. H. Mír Hussain Alí Khán, daughter of H. H. Mír Nasír Khán.
14. Wife of H. H. Mír Hasan Alí Khán, daughter of H. H. Mír Núr Muhammad Khán.
15. Wife of H. H. Mír Muhammad Khán, daughter of H. H. Mír Sobdár Khán.
16. Daughter of H. H. Mír Murád Alí Khán.
17. Widow of Mír Abdula Khán, daughter of H. H. Mír Núr Muhammad Khán.
18. Widow (third wife) of H. H. Mír Murád Alí Khán, daughter of Mubárak Khán Bhurgarí.
19. Widow (second wife) of H. H. Mír Núr Muhámmad Khán, daughter of Malik Sobdár Numriya.
20. Widow (third wife) of H. H. Mír Kuram Alí Khán, daughter of Malik Ahmad Khán Numriya.

BOMBAY ACT No. XIII OF 1866 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th November, 1866.*)

An Act to provide for the Attendance and Examination of Witnesses before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations.

WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations and for the examination of such witnesses; It is enacted as follows:— Preamble.

1. It shall be lawful for the Governor of Bombay, by a summons under the hand of the Secretary, to require the attendance before the Council of the Governor of Bombay assembled for the purpose of making Laws and Governor may by summons require person to appear

[a] Bom. Act XIII of 1866 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxx iii.

before Council.

Regulations, at a time and place to be mentioned in such summons, of any person residing or being within the Presidency of Bombay, whose evidence shall in the judgment of the said Council be material with reference to any measure, Bill or Act then under consideration by the said Council, and by such summons to require the person so summoned to produce before the said Council all such books, deeds, writings and documents as to the said Council shall appear necessary for obtaining information as to the matter so under consideration;

and every person so summoned shall according to the exigency of the summons attend before the said Council and produce such books, deeds, writings and documents as shall be in his possession, power or control.

Administration of oath.

2. It shall be lawful for the said Secretary or any other officer appointed in that behalf by the Governor of Bombay to administer an oath [a], in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid; and the person to whom such oath [a] shall be administered shall be bound to state the truth. But nothing herein contained shall prevent such person from giving evidence without oath [a] if the said Council shall think it expedient that the evidence should be so given.

Powers against persons failing to appear.

3. If any person upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode, shall without such cause as may be deemed reasonable by the said Governor of Bombay fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath [a] as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail without such cause as may be deemed reasonable by the said Governor of Bombay to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not), the Governor of Bombay shall, on the report of the said Council that such failure or refusal has taken place, have the power by warrant under his hand to direct that such person be apprehended, and committed to and detained in close custody in a place and for a time specified in the warrant, until he shall comply to the satisfaction of the said Council with such requisitions as have been made on him touching his examination.

The warrant shall specify the person or persons by whom such apprehension, committal and detention shall be made.

[a] Words repealed by Bom. Act III of 1886 are omitted.

4. Whenever a summons is issued for the attendance of a witness under this Act, such witness shall be entitled to receive from the Collector or Commissioner of the district or place in which the witness resides such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original civil jurisdiction within the local limits of which he shall be residing. Expenses of witnesses.

5.—[*Application of ss. 21 and 32 of Act II of 1855.*] *Repealed by Act XII of 1876.*

6. The word "Council" shall include any Select Committee of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Act, 1861 [a]: Interpretation-clause.

24 & 25 Vict., c. 67.

the word "Secretary" shall mean the Secretary to the Government of Bombay in the Legislative or Judicial Department, and shall include an Under-Secretary, Assistant Secretary and Deputy Secretary to the Government of Bombay.

BOMBAY ACT No. XIV OF 1866.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 7th December, 1866.*)

An Act to bring the parganas of Edulábád and Warangáon under the general Regulations and Acts of the Presidency of Bombay.

PREAMBLE. [*Repealed by Act XII of 1876.*]

1.—[*Subjection of Parganas Edulábád and Warangáon to Regulations and Acts of Bombay Presidency.*] *Repealed by Act XII of 1876.*

2.—[*Bar of jurisdiction of Civil Courts in certain cases.*] *Repealed by Act X of 1876.*

3. The privileges and exemptions provided in Privileges and exemptions of certain persons of rank.

sections 3, 4 and 5, Regulation XXIX, A. D. 1827 [b] (*A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkhan and Khándesh*), and

section 5 of Regulation VII, A. D. 1830 [b] (*A Regulation for bringing under the operation of the Regulations the Territories comprised in the Southern Maratha Country, belonging to the Honourable Company, and forming the said Territories into a Zila*), and

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[a] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.
[b] Printed in Vol. I of this Code.

Regulation I, A. D. 1831 [a] (*A Regulation for extending the Jurisdiction of the Agent of Government acting under the provisions of section 4, Regulation XXIX of 1827* [a], *over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of Land Revenue*), and

Regulation XVI, A. D. 1831 [a] (*A Regulation for extending the Jurisdiction vested in the Political Agent in the Southern Marátha Country under the provisions of section 5, Regulation VII, A. D. 1830* [a], *to the cognizance of civil suits of the nature specified in Regulation I, A. D. 1831* [a], *and also for the better defining the extent of Jurisdiction therein conferred with respect to persons of the privileged classes*) [b],

are applicable in districts now brought under the Regulations and Acts to the persons of rank therein referred to, in the same manner as they are in the rest of Khándesh and the Dekkhan.

4.—[*Validation and indemnification.*] *Repealed by Act XII of 1876.*

BOMBAY ACT No. VI OF 1867.

CONTENTS.

PREAMBLE.
SECTIONS.
1. Establishment of sanitaria.
Appointment of establishment.
2. Appointment of Health Officer of Port.
3. Removal of persons suffering from infectious disease to sanitarium.
Penalty.
4. Removal by written order of person refusing to proceed to sanitarium.
5. Magistrate, on certificate of medical officer, to make requisition as in section 3.
Penalty.
6. Master of vessel to give notice of person suffering on board from infectious disease.
Penalty.
7. Power to Health Officers to enter vessel and question master or commander.
Penalty.
8. Master or commander may be required to remove person suffering from infectious disease.
Penalty.

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[a] Printed in Vol. I of this Code.
[b] Portion repealed by Act XVI of 1895 is omitted.

SECTIONS.

9. Disinfection of vessels,
and recovery of expenses and penalties.
10. Detention by superintendent of person brought into sanitarium until discharged.
11. Power to Government to make and publish rules.
Penalty.
12. Power to determine what diseases are infectious.
13. Power to authorize person to exercise powers of Health Officer.
14. Power to make special orders in special cases.
Penalty.
15. [*Repealed.*]
SCHEDULE A.
SCHEDULE B.

BOMBAY ACT No. VI OF 1867.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th December, 1867.*)

An Act for the better sanitary regulation of the city of Bombay.

WHEREAS it is expedient to take measures to check the spread of infectious diseases dangerous to life in the city of Bombay, and especially with reference to vessels arriving at, or being within the limits of, the port of Bombay; It is enacted as follows :— Preamble.

1. It shall be lawful for Government, with a view of providing for the segregation of persons suffering from any infectious disease dangerous to life, from time to time to establish, by notification, for the purposes hereinafter specified, one or more places to serve as sanitaria for the city of Bombay, and to notify the local limits of such sanitaria. Establishment of sanitaria.

And it shall be lawful for Government, acting under the general control of the Government of India, to appoint a superintendent of each sanitarium, with such establishment as may be necessary. Appointment of establishment.

2. It shall be lawful for Government to appoint a Health Officer of the port for the purposes of this Act, and the Health Officer of the port shall be an assistant to, and subject to the general control of, the consulting officer of health. Appointment of Health Officer of Port.

3. When it shall appear to the consulting officer of health, or in his absence to the Health Officer of the port, that any person in the city of Bombay, being in the public streets or thoroughfares, or in a place of public resort, such as dharmsalas, temple-enclosures and the like, and without proper Removal of persons suffering from infectious disease to sanitarium.

lodging or accommodation, or being on board any vessel and without proper lodging or accommodation on shore, is suffering from an infectious disease dangerous to life; and that it is necessary for the safety of the public that he should be removed to a sanitarium,

either of the said officers of health may require such person to proceed to a sanitarium, and the person so required shall be bound to proceed or allow himself to be conveyed to that sanitarium, and shall be bound to remain there till one of the said officers of health certifies that he may go at large without danger to the public.

Penalty.

Any such person refusing or voluntarily neglecting to obey such requisition shall be liable to the penalties provided in section 269 of the Indian Penal Code [a]. XLV of 1860.

Removal by written order of person refusing to proceed to sanitarium.

4. If any such person shall refuse or voluntarily neglect to proceed to the sanitarium when duly required in the manner described in the last preceding section, the consulting officer of health, or in his absence the Health Officer of the port, may, by a written order in the form given in [b] Schedule A [b], direct that such person be conveyed to a sanitarium, and such written order, signed by one of the said officers of health, shall be sufficient warrant for the conveyance of such person to the sanitarium.

Magistrate, on certificate of medical officer, to make requisition as in section 3.

5. It shall be lawful for any Magistrate of Police, on the certificate of a covenanted medical officer of Government, or of any member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, as to the nature of the disease, and on such evidence as may be thought by him sufficient in regard to the other conditions recited in section 3 [c], to make requisition as in the said section, and any person refusing or voluntarily neglecting to obey such requisition shall be liable to the penalties provided in section 269 of the Indian Penal Code [a].

Penalty.

Master of vessel to give notice of person suffering on board from infectious disease.

6. When the master or commander of any vessel, being within the limits of the port of Bombay, shall become aware that any person on board his vessel is suffering from any infectious disease dangerous to life, he shall immediately give notice to the Health Officer of the port, and, pending the orders of the Health Officer of the port, he shall either remove such person to a sanitarium, or take other suitable precautions to prevent the spread of the disease.

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[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b-b] This reference was substituted for the original words by Act XVI of 1895.

[c] Words repealed by Bom. Act III of 1886 are omitted.

If the master or commander shall wilfully neglect to act as directed in this section, he shall be liable to the penalties provided in section 269 of the Indian Penal Code [a]. Penalty.

XLV of 1860.

7. It shall be lawful for the consulting officer of health or for the Health Officer of the port at any time to enter into and inspect any vessel being within the limits of the port of Bombay, and to question the master or commander regarding the sanitary condition of the vessel and of the persons on board, and the master or commander shall be bound truthfully to answer such questions. Power to Health Officer to enter vessel and question master or commander.

And, if the master or commander shall wilfully give false information to either of the said officers, he shall be liable to the penalties provided in section 177 of the Indian Penal Code [a]; and, if he shall refuse to answer questions put to him, he shall be liable to the penalties provided in section 179 of the Indian Penal Code [a]. Penalty.

8. If it shall appear to the consulting officer of health or the Health Officer of the port that any person on board a vessel within the limits of the port of Bombay is suffering from any infectious disease dangerous to life, he may, [b]by an order in writing in the form given in Schedule B[b], require the master or commander of the vessel to remove such person, or any other person who shows premonitory symptoms of such disease, to a sanitarium or other place on shore where, in the opinion of the Health Officer, proper lodging and accommodation are available; and the master or commander shall be bound to obey such requisition and is hereby authorized and empowered to enforce such removal. Master or commander may be required to remove person suffering from infectious disease.

And, if the master or commander shall refuse or wilfully neglect to obey such requisition, he shall be liable to the penalties provided in section 269 of the Indian Penal Code [a]. Penalty.

9. When it shall appear to the Health Officer of the port that, owing to a person suffering from an infectious disease dangerous to life being on board or having recently been on board any vessel within the limits of the port of Bombay, it is expedient that measures should be taken for the disinfection of such vessel, the said Health Officer may, by an order in writing to the master or commander of such vessel, direct all or any part of the vessel to be forthwith fumigated or otherwise cleansed for sanitary purposes, in accordance with rules published on that behalf by Government under section 11 [c]; Disinfection of vessels,

and if the master or commander neglect to do so within the period fixed and recovery of expenses and penalties.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b-b] These words were inserted by Act XVI of 1895.

[c] Words repealed by Bom. Act III of 1886 are omitted.

in the said order, provided such period be not less than twenty-four hours from the time when such order shall have been served upon him, the said Health Officer may cause the same to be done, and the expenses incurred shall be paid by the owner or the master on demand, and, if not so paid, shall be recovered in the manner provided in section 55 of the Indian Ports Act, 1889 [a], for the recovery of penalties imposed under that Act. X of 1889.

Detention by superintendent of person brought into sanitarium until discharged.

10. It shall be lawful for the superintendent of the sanitarium, and it shall be his duty, to detain in the sanitarium under his charge all persons who shall come or be brought to such sanitarium under sections 3, 4, 6 or 8, until they shall be discharged under a certificate to be granted under rules made by Government under section 11 [b].

Power to Government to make and publish rules.

11. It shall be lawful for Government from time to time to make and publish general rules for the proper management and discipline of sanitaria established under this Act, and for the disinfection or destruction of the personal property of persons suffering or who have recently suffered from any infectious disease dangerous to life, and for the disinfection and cleansing of vessels on board of which such persons are or recently have been, and from time to time to alter or repeal such rules.

Penalty.

Any person who shall disobey such rules or any of them shall be liable to the penalties provided in section 271 of the Indian Penal Code [c]. XLV of 1860.

Power to determine what diseases are infectious.

12. It shall be lawful for Government from time to time to determine by notification what diseases shall, for the purposes of this Act, be held to be infectious diseases dangerous to life.

Power to authorize person to exercise powers of Health Officer.

13. It shall be lawful for Government, when necessary, to authorize any one or more persons to exercise all or any of the powers conferred by this Act on the consulting officer of health or on the Health Officer of the port: provided that every such person shall be a covenanted medical officer of Government, or a member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, and shall exercise these powers subject to the general control of the consulting officer of health.

Power to make special orders in special cases.

14. Whenever it shall appear to Government that, owing to the expected introduction of any infectious disease dangerous to life, or owing to other exceptional circumstances, the ordinary precautions authorized by this Act are insufficient to prevent the spread of such disease, it shall be lawful for Government, by notification, to make such orders, and from time to time to vary the

[a] The reference to s. 55 of Act XXII of 1855 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

[b] Words repealed by Bom. Act III of 1886 are omitted.

[c] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

same, as it shall deem expedient, for the enforcement of sanitary measures with respect to any vessel arriving at, or being within the limits of, the port of Bombay, or in regard to any persons on board any such vessel, or their personal property.

And any person disobeying such orders or any of them shall liable to the penalties provided in section 271 of the Indian Penal Code[a]. Penalty.

15. [*Interpretation.*] *Repealed by Bom. Act III of 1886.*

SCHEDULE A.

To

WHEREAS *A.B.*, being a person without proper lodging or accommodation in the city of Bombay, is suffering from an infectious disease dangerous to life, and it is necessary for the safety of the public that he should be removed to a sanitarium; and whereas, having been required to proceed to such sanitarium, he has neglected to do so; you are hereby authorized, with such assistance as you may require, to convey him, under section 4 of Act VI of 1867, to , and this shall be your warrant for so conveying him.

Consulting Officer of Health, or Health Officer of the Port.

SCHEDULE B.

To

The Master or Commander of Vessel _____

(*Name.*)

WHEREAS *A. B.*, at present on board the vessel _____ within the limits of the port of Bombay, is suffering from an infectious disease dangerous to life [*or* shows premonitory symptoms of a disease dangerous to life (*as the case may be*)], these are to require you to remove the said *A. B.* to [*here designate the sanitarium or other place on shore where, in the opinion of the consulting officer of health or Health Officer of the port, proper lodging and*

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

accommodation are available], and, for enforcing the said removal, this shall be your sufficient warrant.

Consulting Officer of Health, or Health Officer of the Port.

THE BOMBAY DISTRICT POLICE ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
2. [*Repealed.*]
3. Constitution of force.
4. Superintendence in Government.
5. Administration of Police vested in one or more Commissioners, with assistants.
   Administration of Police in districts vested in District Superintendent.
   Appointment and removal of officers.
6. Powers of Commissioners and their exercise.
7. Powers conferable on Assistant Commissioners, etc.
   In what cases those powers shall be exercised.
8. Commissioners, etc., to appoint and dismiss.
9. Police-officers to receive certificates of office.
10. Police-officers not to resign without leave or two months' notice.
11. Police-officers not to engage in other employment.
12. [*Repealed.*]
13. Power to Commissioner to make rules.
14. Power to employ additional Police-officers at cost of individuals.
15. Appointment of additional force in neighbourhood of railway and other works.
16. Quartering of additional police in disturbed or dangerous districts.
17. Payment of money for support of additional police-force.
18. Power to Magistrate or District Superintendent, etc., to call upon persons to aid police.
19. Power to Magistrate to apply for military aid.
20. Police always on duty, and may be employed in other part of Presidency.
21. Duties of police-officers.
22. Power to seize instruments, etc., believed to be kept for unlawful purposes.
    Instruments, etc., how disposed of.

SECTIONS.

23. Police may lay informations, etc.
24. Police to take charge of unclaimed property, and deliver it to patel of village.
25. Penalty on persons refusing to deliver up certificate, etc., on ceasing to be Police-officers.
26. Penalties for neglect of duty, etc.
27. Orders for regulation of public processions, etc.
28. Police to keep order on public roads, etc.
29. Penalty for disobeying orders under last two sections.
30. Control of Magistrate of district.
31. Penalty on persons in town or other place causing obstruction, damage, etc., to residents or passengers.
Arrest without warrant of person—
ill-using animal;
bathing in, or defiling, tank or reservoir, etc.;
recklessly riding, etc., or leaving cattle insufficiently secured;
driving without light;
depositing goods for sale;
depositing rubbish;
slaughtering cattle on public street;
indecently exposing person, etc.;
committing nuisance;
being riotous or disorderly.
32. Police-officer to take recognizance of persons charged.
33. Common nuisances.
34. Removal of prickly pear or other nuisance from waste-land of town or village.
35. Jurisdiction.
Proviso.
36. Power to prosecute not affected.
Proviso.
37. Levy of forfeitures and penalties by distress.
38. Procedure until return is made to warrant of distress.
39. Imprisonment if distress not sufficient.
40. [*Repealed.*]
41. Rewards to police and informers payable to General Police Fund.
Proviso.
42. Limitation of action.
Effect of tender of amends.
Proviso.
43. Plea that act was done under warrant.
Proviso.
44. Power to depute to District Police Superintendent authority of Magistrate.
45. Village Police-officers.
46. Extent.
47. Short title.

FORM.

BOMBAY ACT No. VII OF 1867 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th December, 1867.*)

An Act for the regulation of the District Police in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to establish regulations for the administration of the Police of the Presidency of Bombay; It is enacted as follows:—

Interpretation-clause.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say [b]—

the word "district" shall mean the limits of the local jurisdiction of the Magistrate of the district:

the term "Police" or "Police-officer" shall include all persons appointed or enrolled under this Act:

the term "constable" shall mean a Police-officer of the lowest grade in the Police:

the word "property" shall include any moveable property, money or valuable security:

the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2.—[*Repeal of enactments.*] *Repealed by Act XII of 1873.*

Constitution of force.

3. The Police-establishment of the several districts of the Bombay Presidency shall consist of such number of officers and men, and shall be constituted in such manner, and shall receive such pay, as shall from time to time be ordered by Government, subject to the sanction of the Governor General of India in Council.

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[a] Bom. Act VII of 1867 applies to Sindh (see s. 46, *infra*, p. 118); but the Act (with the exception of ss. 33 and 34) will be repealed there whenever s. 2 of Bom. Act IV of 1890 (printed in Vol. III of this Code) is extended to the province.

Bom Act VII of 1867 was declared in force in Aden by notification No. 704, dated 20th June, 1879, and in Perim by notification No. 7478, dated 18th December, 1886 (see Appendix to Vol. I of this Code, pp. lviii and lix), issued under the Scheduled Districts Act, 1874; but the Act (with the exception of ss. 33 and 34) appears to be repealed in those places by Bom. Act IV of 1890 (printed in Vol. iii of this Code), which was extended to "Aden" by notification No. 1191, dated 29th February, 1892 (see Appendix to Vol. I of this Code, p. lix).

Bom. Act VII of 1867 (with the exception of ss. 33 and 34) is repealed in the rest of the Bombay Presidency by Bom. Act IV of 1890.

For power to create a general police-district embracing parts of two or more presidencies, provinces or places, see Act III of 1888, s. 2 (in General Acts, 1885-88, Ed. 1889, p. 191). As to employment of police-officers beyond the presidency, province or place to which they belong, see *ib.*, s. 3.

[b] Portion repealed by Bom. Act III of 1886 is omitted.

4. The superintendence of the Police throughout the Bombay Presidency shall vest in, and, subject to the general control of the Governor General of India in Council, shall be exercised by, Government, and except as authorized under this Act, no person, officer or Court shall be empowered by Government to appoint, supersede or control any Police-officer. Superintendence in Government.

5. The administration of the Police throughout the whole or any portions of the Bombay Presidency shall be vested in one or more Commissioners, with such assistants, as may seem fit to Government, and each Commissioner shall have under his control such districts as Government may direct. Administration of Police vested in one or more Commissioners, with assistants.

The administration of the Police in one or more districts shall, under the control and direction of the Magistrate of the district subordinate to the Commissioner aforesaid, be vested in a District Superintendent and such Assistant District Superintendents as Government shall consider necessary. Administration of Police in districts vested in District Superintendent.

The Commissioner and other officers above-mentioned shall from time to time be appointed by Government, and may be removed by the same authority. Appointment and removal of officers.

6. Each Commissioner shall have the [a] powers of a [b] Magistrate of the first class [b] throughout the districts under his control, but shall exercise those powers subject to such limitation as may from time to time be imposed by Government. Powers of Commissioners and their exercise.

7. Government may vest any Assistant Commissioner, District Superintendent or Assistant District Superintendent of Police with [b]magisterial powers[b] within such limits as it may deem proper; Powers conferable on Assistant Commissioners, etc.

but such officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and so far as may be necessary for the performance of the duties assigned to them by this Act. In what cases those powers shall be exercised.

8. The appointment or enrolment of all Police-officers other than those mentioned in section 5 [a] shall be for one or more districts, and shall, under such rules as Government shall from time to time sanction, rest with the Commissioners and District Superintendents of Police, who may under such rules as aforesaid at any time dismiss, suspend or reduce any Police-officer whom they shall think remiss or negligent in the discharge of his duty or unfit for the same, or fine to any amount not exceeding one month's pay any Police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof. Commissioners, etc., to appoint and dismiss.

[b] Words repealed by Bom. Act III of 1886 are omitted.

[b-b] These words were substituted for the original words by Bom. Act III of 1886.

Police-officers to receive certificates of office.

9. Every Police-officer so appointed or enrolled shall receive, on appointment or enrolment, a certificate, in the form annexed to this Act, under the seal of the Commissioner or such other officer as the Commissioner shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police, and shall be immediately surrendered to the superior officer of such person, or to some other officer empowered to receive the same.

Police-officers not to resign without leave or two months' notice.

10. No Police-officer shall be at liberty to withdraw himself from the duties of his office, unless with the express sanction of the District Superintendent or of some other officer authorized to grant such permission, or under the certificate of a medical practitioner, nor shall he without the leave of the District Superintendent resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

Police-officers not to engage in other employment.

11. No Police-officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Commissioner.

12.—[*Superannuation fund.*] *Repealed by Act XVI of 1874.*

Power to Commissioner to make rules.

13. Any Commissioner may from time to time, subject to the approval of Government, frame such orders and rules as he shall deem expedient relative to the organization and classification of the Police in the districts under his control; the particular services to be performed by them; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information, and all such other orders and rules as the Commissioner shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering the Police under his control efficient in the discharge of their duties; and he shall further determine, in consultation with the Magistrate of the district, the distribution of the Police in the several districts.

Power to employ additional Police-officers at cost of individuals.

14. It shall be lawful for any Commissioner, or, subject to the general direction of the Magistrate of the district, for a District Superintendent, on the application of any person showing the necessity thereof, to depute any additional number of Police to keep the peace, or to perform other Police-duties, at any place and for such time as shall be deemed proper.

Such additional Police shall be under the orders of the District Superintendent, and shall be at the charge of the person making the application:

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Commissioner or to the District Superintendent, or such shorter notice as

may be accepted by either of the said officers, to require that the Police so deputed shall be withdrawn, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment of additional force in neighbourhood of railway and other works.

15. Whenever any railway, canal or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation, in any part of the country, and it shall appear to any Commissioner that the employment of additional Police in such place is rendered necessary by the behaviour, or reasonable apprehension of the behaviour, of the persons employed upon such work, manufactory or concern, it shall be lawful for the Commissioner, with the consent of Government, to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous districts.

16. It shall be lawful for Government, by notification and in such other manner as may to it seem fit, to direct the employment of any Police-force in excess of the ordinary fixed complement quartered in any part of the Presidency which shall be found to be in a disturbed or dangerous state, or any part thereof in which, from the conduct of the inhabitants, Government may deem it expedient to increase the number of Police.

The cost of such additional Police may wholly or in part, at the discretion of Government, be defrayed by a local rate charged on the part of the country described in the notification, and the Collector, on the requisition of the Magistrate of the district, shall levy the amount by such an assessment on the inhabitants thereof as the Collector shall in his discretion think just:

Provided, however, that when the part of the Presidency so notified is within the limits of any town in which there is a municipal commission under Act XXVI of 1850,[a] or other Act [b] in force, the said charge shall be defrayed from the municipal fund, and any additional tax necessary for the purpose shall be assessed by the municipal commission.

Payment of money for support of additional Police-force.

17. All moneys payable under the last three preceding sections, on account of any additional Police employed as therein directed, shall be recoverable by order of the Collector after a written notice of seven days in the same manner and by the same process as a revenue-demand under the laws in force for the collection of revenue, and the moneys paid on this account or so recovered shall be credited to a fund to be called "The General Police Fund," and shall

[a] Act XXVI of 1850 was repealed in Bombay by Bom. Act VI of 1873.
[b] See now Bom. Act VI of 1873, *infra*, p. 139.

be applied to the maintenance of the Police under such orders as Government shall pass:

Provided that all moneys assessed under the proviso of the section last preceding shall be levied by order of the municipal commission for payment to Government, and shall be recovered by them in the same manner and by the same process as assessments levied for municipal purposes.

Power to Magistrate or District Superintendent, etc., to call upon persons to aid Police.

18. It shall be lawful for a Magistrate, or District Superintendent or Assistant District Superintendent of Police, or for any Police-officer, to demand the aid of any person in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate, or District Superintendent or Assistant District Superintendent of Police or Police-officer is authorized to arrest.

Power to Magistrate to apply for military aid.

19. If on any emergency the available force of Police be found insufficient to quell riot or other serious disturbance of the public peace, it shall be lawful for the Magistrate of highest authority on the spot to apply to the commanding officer of the nearest military post or station for military aid to quell the disturbance by force of arms.

Police always on duty and may be employed in other part of Presidency.

20. Every Police-officer shall for all purposes in this Act contained be considered to be always on duty in the district or districts to which he belongs, and may at any time be employed for so long as his services are required on duty in any other part of the Presidency.

Duties of Police-officers.

21. It shall be the duty of every Police-officer promptly to obey and execute all orders and warrants lawfully issued to him by competent authority;

to collect and communicate intelligence affecting the public peace;

to prevent the commission of offences and public nuisances;

to detect and bring offenders to justice; and

to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists;

and it shall be lawful for every Police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.

Power to seize instruments, etc., believed to be kept for unlawful purposes.

22. It shall be lawful for any Police-officer above the rank of a constable to seize all such instruments or other articles as he shall have good reason to believe are kept for unlawful purposes; but, if to effect the seizure it be necessary to enter a dwelling-house, no entry shall be made without warrant.

Istruments, etc., how disposed of.

Such instruments and articles shall be disposed of as the Magistrate of the district may direct.

Police may lay informations, etc.

23. It shall be lawful for any Police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such

other legal process as may by law issue against any person committing an offence [a].

24. It shall be the duty of every Police-officer to take charge of all unclaimed property, and to deliver it to the Police-patel of the village in which the said unclaimed property is found, and to take a receipt, which he shall forward to the nearest Magistrate having local jurisdiction.

Police to take charge of unclaimed property, and deliver it to patel of village.

25. Every person having ceased to be a Police-officer under this Act who shall wilfully neglect or refuse to deliver up his certificate, and the clothing, accountrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or, in default of payment, to imprisonment[b] for a period not exceeding six months.

Penalty on persons refusing to deliver up certificate, etc., on ceasing to be Police-officers.

26. Every Police-officer

who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation, or lawful order made by competent authority, or

who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or

who shall engage without authority in any employment other than his Police-duty, or

who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment [b] for a period not exceeding three months, or to both.

Penalties for neglect of duty, etc.

27. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

They may also regulate the use of music in the streets of towns on occasion of festivals and ceremonies.

Orders for regulation of public processions, etc.

28. It shall be the duty of the Police

to keep order on the public roads, and in the public streets, thoroughfares, bathing, washing and landing places, and at all other places of public resort, or in the neighbourhood of places of worship, during the time of public worship,

Police to keep order on public roads, etc.

[a] Words repealed by Act X of 1886, s. 20, are omitted.
[b] Words repealed by Bom. Act III of 1886 are omitted.

to prevent obstructions on public roads and in public streets, thoroughfares, bathing, washing, and landing places and

to prevent overcrowding in public ferry-boats.

Penalty for disobeying orders under last two sections.

29. Every person opposing or not obeying the orders issued under the last two preceding sections shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment [a] for a period not exceeding six months, on conviction thereof before a Magistrate, if such order shall have been issued under section 27 [a], and to a fine not exceeding fifty rupees or, in default of payment, to imprisonment [a] for a period not exceeding two months, on conviction before a Magistrate, if such order shall have been issued under section 28 [a].

Control of Magistrate of district.

30. Nothing in the last three preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

Penalty on persons in town or other place causing obstruction, damage, etc., to residents or passengers.

31. In any town or other place in which there is a Magistrate resident, or in any town or other place, or on, or close to, any public road, to which town, place or road the operation of this section shall be specially extended by Government by notification, any person who shall offend as follows, so as to cause obstruction, annoyance, risk, danger or damage to residents or passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or, in default of payment, to imprisonment not exceeding eight days;

Arrest without warrant of person—

and it shall be lawful for any Police-officer to take into custody without a warrant any person so offending within his view, that is to say—

ill-using animal;

(1) any person who wantonly and cruelly beats, ill-uses or tortures any animal:

bathing in or defiling tank, or reservoir, etc;

(2) any person who bathes or washes in, or otherwise defiles or causes to be defiled, any public well, tank, reservoir or watering-place, so as to render it less fit for any purpose for which it is set apart: provided that a prohibitive notice in the language of the district shall have been fixed in a conspicuous place contiguous:

recklessly riding, etc., or leaving cattle insufficiently secured;

(3) any person who on any road or public thoroughfare recklessly or furiously rides, drives, trains or breaks, or leaves insufficiently tended or secured, any horse or other cattle, or keeps any cattle or conveyance of any kind standing longer than is necessary after receipt of warning to remove, or

driving without light; depositing goods for sale;

who on a dark night drives any vehicle without a sufficient light, or who unauthorizedly deposits for sale or otherwise any goods, or

[a] Words repealed by Bom. Act III of 1886 are omitted.

who deposits, except in appointed places, any dirt, filth or rubbish, or — depositing rubbish;

without the permission of a Magistrate, municipal commission or Police-officer, makes a bonfire, or wantonly lets off any firearm or firework within fifty feet of the public road:

(4) any person who on or close to, and within sight of, any public road, street or thoroughfare, slaughters any cattle or cleans any carcase or hide; — slaughtering cattle on public street;

or wilfully and indecently exposes his person, or, for the purpose of obtaining money, exposes any offensive deformity or disease; — indecently exposing person, etc.;

or commits nuisance; — committing nuisance;

or who is, from intoxication, riotous, disorderly or incapable of taking care of himself. — being riotous or disorderly.

32. It shall be the duty of every Police-officer above the rank of constable, upon any person charged under the section last preceding being brought before him, to take personal recognizance of the person so charged, with or without other security, for the appearance of the said person before a Magistrate. — Police-officer to take recognizance of persons charged.

[a]**33.** Any person — Common nuisance.

who on any public thoroughfare, without the permission of a Magistrate or municipal commission, constructs any booth, shed, stable or the like, or lays down any stones or building material; or

who within the limits or site of any town or village, without sufficient cause, wilfully allows to accumulate any offensive matter in cesspools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers; or

who without sufficient cause wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like; or

who deposits the bodies of dead animals, or refuse or filth of any description either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community; or

who, in disregard of established rules or the order of a Magistrate, stacks or stores grass or other inflammable material within fifty yards of a dwelling-house, out-house or other building; or fails to remove the same when so stacked or stored; or

who disobeys the order of a Magistrate given in respect to land in or near towns, villages or dwelling-places, or in or near public roads and thoroughfares,

[a] During such time as Part II or Part III of the Bombay Village Sanitation Act, 1889, and the rules made thereunder, are in force in any village, ss. 33 and 34 of Bom. Act VII of 1867 cease to have any operation therein—see Bom. Act I of 1889, s. 3, in Vol. III of this Code.

for the pruning of hedges, or for the pruning or removal of overgrown prickly-pear or other vegetation, the unchecked growth of which is likely to be injurious to health,

shall be punishable for every such offence, on conviction before a Magistrate, to the extent of fifty rupees fine, or, in default of payment, to imprisonment not exceeding eight days:

Provided that no person shall be required to prune a hedge below three feet in height and three feet in width.

Removal of prickly-pear or other nuisance from waste-land of town or village.

[a]34. Whenever the removal of prickly-pear or other vegetation or of any nuisance, from the common or waste-land of any town or village shall in the opinion of a[b]Magistrate of the first class[b] be necessary, it shall be lawful for the said Magistrate to order such removal by a general notice addressed to all persons having an interest in the said common land, and to the inhabitants of the town or village at large, which notice shall be affixed to the chaunri or other principal place of public resort: and if within a reasonable time, being not less than seven days, to be specified in the said notice, the order be not carried out, the Magistrate may cause the vegetation or nuisance to be removed, and on the requisition of the said Magistrate the cost of the removal shall be assessed and levied from the inhabitants in the manner provided in sections 16 and 17[c].

Jurisdiction.

35. In all cases of convictions under this Act the officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict:

Proviso.

Provided that any charge against a Police-officer above the rank of a constable preferred under this Act shall be inquired into and determined only by an officer exercising the full powers of a Magistrate.

Power to prosecute not affected.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act:

Proviso.

Provided that no person shall be punished twice for the same offence.

Levy of forfeitures and penalties by distress.

37. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, if the said Magistrate see fit, in case

[a] See foot-note on last preceding page.
[b] These words were substituted for the original words by Bom. Act III of 1886.
[c] Words repealed by Bom. Act III of 1886 are omitted.

of non-payment thereof, be levied by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the district by warrant under the hand of the Magistrate who made the order.

Procedure until return is made to warrant of distress.

38. In case any such forfeiture or penalty shall not be forthwith paid the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

39. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned according to the discretion of the Magistrate, for any term not exceeding two [a] months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four [a] months when the amount shall not exceed one hundred rupees, and for any term not exceeding six [a] months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

40.—[*Recovery of Penalties from European British Subjects.*] *Repealed by Act X of 1872.*

Rewards to police and informers payable to General Police Fund.

41. All sums paid for the service of process by Police-officers, and all rewards, forfeitures and penalties, or shares of rewards, forfeitures and penalties, which by law are payable to informers, shall, when the information is laid by a Police-officer, be paid into the General Police Fund:

Proviso.

Provided that nothing in this section shall prevent the grant of a portion or the whole of such reward, forfeiture or penalty to individuals of the Police-force for particular service.

Limitation of action.

42. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent

[a] The word repealed by Bom. Act III of 1886 is omitted.

or an Assistant District Superintendent of the district in which the act was committed, one month at least before commencement of the action.

Effect of tender of amends.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action:

Proviso.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Plea that act was done under warrant.

43. When any action or prosecution shall be brought or any proceedings held against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate.

No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Proviso.

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

Power to depute to District Police Superintendent authority of Magistrate.

44. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner [a], to depute to the District Superintendent of Police any authority which may be exercised by the Magistrate of a district for the purposes of police over any village Police-officer.

Village Police-officers.

45. Nothing in this Act shall affect any hereditary or other village Police-officer unless such officer shall be enrolled as a Police-officer under this Act.

When so enrolled, such officer shall be bound by the provisions of this Act.

No hereditary village Police-officer shall be enrolled under this Act without his consent and the consent of those who have the right of nomination.

Extent.

46. This Act applies to the Province of Sindh, but does not apply to the City of Bombay.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

47. This Act may be cited as the Bombay District Police Act, 1867. Short title.

FORM.

(*See section 9.*)

L.S.

A. B. has been appointed to the Police of the district or districts of *C. D.*, in the Bombay Presidency, and is vested with the powers and privileges of a Police-officer under the Bombay District Police Act, 1867.

THE BOMBAY VILLAGE POLICE ACT, 1867.

CONTENTS.

PREAMBLE.
SECTIONS.
1. Interpretation-clause.
2. [*Repealed.*]
3. Administration, control and direction of village-police in whom vested.
4. Power to depute to District Superintendent authority over village-police-officer.
5. Village-police in villages under charge of Police-patel.
Appointment of Police-patel.
Police-patels may be appointed for different divisions of town or place.
6. Duties of Police-patel.
7. Authority over village-servants.
8. Precautions against robbery, etc.
9. Penalties for neglect of duty, etc.
9A. Liability to criminal prosecution not affected.
Power to suspend during trial.
10. Information to officer in charge of District Police-station when criminal in village has escaped or is not known.
11. Inquest in cases of unnatural or sudden death, or corpse found within village.
Punishment for refusing or neglecting to serve on inquest.
Corpse when forwarded to nearest Civil Surgeon, etc., for examination.
When burning to be delayed till officer in charge of Police-station assents.

SECTIONS.

12. Police-patel to apprehend person he believes has committed serious offence.
Person apprehended to be forwarded to Police-station.
13. Power to call and examine witnesses, record evidence, and search for concealed articles.
Power to enter limits of other villages.
14. Power to try and punish for petty assault or abuse.
15. Commissioner of Police may authorize Magistrate to commission Police-patel to try certain offenders.
Power of patel to punish.
16. Power to prohibit, and to punish for—
beating, etc., animal;
bathing, washing in, or defiling, well, etc.;
depositing dirt, etc.;
committing nuisance, etc.;
accumulating offensive matter in cess-pools, etc.;
allowing offensive matter to issue on thoroughfare;
depositing dead bodies so as to corrupt water for drinking.
17. Proceedings how taken under sections 14, 15 and 16.
18. Power to cancel commission issued under section 15.
19. Unclaimed property.
20. Prosecution under other Regulations, etc., for offence punishable by Act.
21. Provision in case of absence, sudden illness, etc., of Police-patel.
22. "District Police-station" defined.
23. [*Repealed.*]
24. Short title.

BOMBAY ACT No. VIII OF 1867[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st December, 1867.*)

An Act for the regulation of the Village-police in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to provide for the regulation of the Village-police in the Presidency of Bombay; It is enacted as follows:—

Interpretation-clause.

1. The terms [b] "District Superintendent" and "Assistant Superintendent of Police," "Police-officer" and "District-police," when used in this Act, mean those constituted under the Bombay District Police [c] Acts, 1867 and 1890[c]. Bom. VII of 1867 and IV of 1890.

2. [*Repeal of enactments.*] *Repealed by Act XII of 1873.*

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[a] As to the application of Bom. Act VIII of 1867 to Sindh, see Bom. Act IV of 1881, s. 5, in Vol. III of this Code.

[b] Words repealed by Bom. Act III of 1886, as amended by Bom. Act I of 1891, s. 2 (*a*) (*i*), are omitted.

[c-c] These words and figures were substituted for the original word and figures by Bom. Act III of 1886, as amended by Bom. Act I of 1891, s. 2 (*a*) (*i*). Bom. Act VII of 1867 is printed *supra*, p. 108, and Bom. Act IV of 1890 in Vol. III of this Code.

3. The administration of the village-police throughout each district shall, under the control and direction of the Commissioner [a], be exercised by the Magistrate of the district, who may, with the sanction of the Commissioner [a], delegate any portion thereof to any Magistrate with full powers having also revenue charge as an Assistant or Deputy Collector.

Administration, control and direction of village-police, in whom vested.

4. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner [a], to depute to the District Superintendent of Police any authority which may be exercised by the Magistrate of a district for the purposes of police over any village-police-officer.

Power to depute to District Superintendent authority over village-police-officer.

5. *Clause 1.*—The village-police in each village shall be under the charge of such person as the Magistrate of the district shall, subject to the approval of the [a] Commissioner, appoint in writing to be Police-patel, and unless the Commissioner [a], owing to the size of the village or other good cause, see fit to separate the appointments, the Magistrate of the district shall appoint the person conducting the duties of Revenue-patel to be Police-patel.

Village-police in villages under charge of Police-patel.

Clause 2.—In making the appointment, the said Magistrate shall have due regard to the provisions [b] in force for regulating the services of hereditary officers, so far as the same may be applicable; but, when the Revenue-patel is not appointed Police-patel, and more persons than one claim by reason of hereditary right to perform the duties, in rotation or otherwise, it shall be lawful for the Magistrate of the district to appoint the most fit from among their number.

Appointment of Police-patel.

Clause 3.—In any town or place in which the duties cannot be efficiently performed by one Police-patel, the Magistrate of the district may, with the consent of the Commissioner [a], appoint a sufficient number of Police-patels for the different divisions of the town or place.

Police-patels may be appointed for different divisions of town or place.

6. The Police-patel shall, subject to the orders of the Magistrate of the district, act under the orders of the Magistrate within whose local jurisdiction his village is situated, whom he shall furnish with any returns or information called for, and keep constantly informed as to the state of crime and all matters connected with the village-police, the health and general condition of the community in his village.

Duties of Police-patel.

He shall also afford all Police-officers every assistance in his power when called upon by them for assistance in the performance of their duty.

He shall further promptly obey and execute all orders and warrants issued to him by a Magistrate or Police-officer, shall collect and communicate to the

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Portion repealed by Act XII of 1876 is omitted.

District Police intelligence affecting the public peace, shall prevent within the limits of his village the commission of offences and public nuisances, and shall detect and bring offenders therein to justice.

Authority over village-servants.

7. The Police-patel shall have authority to require all village-servants, in whatever capacity ordinarily employed, to aid him in performing the duties entrusted to him; and it shall be the duty of the village-revenue-accountant, whether hereditary or stipendiary, to frame all written returns and proceedings for the Police-patel.

Precautions against robbery, etc.

8. The Police-patel shall dispose of the village-establishment so as to afford the utmost possible security against robbery, breach of the peace and acts injurious to the public and to the village-community, and shall report to the Magistrate to whose jurisdiction he immediately subordinate all instances of misconduct or neglect committed by any member of the said establishment.

Penalties for neglect of duty, etc.

[a]**9.** Any Police-patel or member of a village-establishment liable to be called on for the performance of Police-duties who shall be careless or negligent in the discharge thereof shall be liable to be fined under the order of any Magistrate of the first class to any amount not exceeding the fourth part of the annual emoluments of his office.

If he shall be accused of any violation of duty or breach of rule, or of other misconduct which shall seem to such Magistrate to require a heavier punishment, he may suspend him from office during inquiry into such accusation, and at the close of such inquiry, if the said Magistrate shall consider him guilty of misconduct meriting such punishment, he may suspend him from office for a further period not exceeding six months, or dismiss him: Provided that no person of the rank of patel shall be dismissed under this section without the sanction of the [b] Commissioner.

Liability to criminal prosecution not affected.

[c] **9A.** Nothing in the last preceding section shall affect the liability of any Police-patel or other member of a village-establishment to a criminal prosecution for any offence with which he may be charged.

Power to suspend during trial.

Any Magistrate of the first class may suspend any person subjected to any such prosecution pending the inquiry and trial.

Information to officer in charge of District Police-station

10. If a crime shall have been committed within the limits of the village, and the perpetrator of the crime has escaped or is not known, the Police-patel shall forward immediate information to the Police-officer in charge of the Dis-

[a] This section was substituted for the original s. 9 by Bom. Act I of 1876, s. 2.
[b] The word repealed by Bom. Act III of 1886 is omitted.
[c] S. 9A was inserted by Bom. Act I of 1876, s. 3.

trict Police-station within the limits of which his village is situated, and shall himself proceed to investigate the matter, obtaining all procurable evidence relating to it which he shall forward to the said officer.

when criminal in village has escaped or is not known.

11. *Clause 1.*—If any unnatural or sudden death occur, or any corpse be found, within the bounds of any village, the Police-patel shall forthwith assemble an inquest, to be composed of two or more intelligent persons belonging to the village or neighbourhood, who shall investigate the causes of death and all the circumstances of the case, and make a written report of the same, which the Police-patel shall cause to be forthwith delivered to the Police-officer in charge of the District Police-station within the limits of which the village is situated.

Inquest in cases of unnatural or sudden death, or corpse found within village.

Clause 2.—Any person who, on being called upon by the Police-patel to serve as a member of such inquest, shall without justifiable cause refuse or neglect to do so, shall be liable, on conviction before a Magistrate, to punishment not exceeding fifty rupees fine, or, in default of payment, to imprisonment for one month.

Punishment for refusing or neglecting to serve on inquest.

Clause 3.—If the results of the inquest afford reason for supposing that death has been unlawfully occasioned, the Police-patel shall give immediate notice to the officer in charge of the District Police-station within the limits of which his village is situated, and, if the corpse can be forwarded without the risk of putrefaction by the way, shall at once forward it to the nearest Civil Surgeon or other medical officer appointed by Government to examine corpses under such circumstances, who shall endeavour to ascertain the cause of death.

Corpse when forwarded to nearest Civil Surgeon, etc., for examination.

Should the Police-patel be unable to forward the corpse without the risk of putrefaction rendering examination useless or dangerous, he shall nevertheless prevent the burning or burying of such corpse until the Police-officer in charge of the District Police-station within the limits of which his village is situated, or one of his subordinates deputed by him or a Magistrate, shall have assented thereto.

When burning to be delayed till officer in charge of Police-station assents.

12. *Clause 1.*—The Police-patel shall apprehend any person within the limits of his village who he may have reason to believe has committed any serious offence, and shall forward such person, together with all articles likely to be useful as evidence, to the Police-officer in charge of the Police-station within the limits of which his village is situated.

Police-patel to apprehend person he believes has committed serious offence.

Clause 2.—Every person so apprehended shall be forwarded within twenty-four hours to the District Police-station within the limits of which the village is situated.

Person apprehended to be forwarded to Police-station.

13. *Clause 1.*—The Police-patel, in making any inquiry coming within the

Power to call

and examine witnesses, record evidence, and search for concealed articles.

scope of his duty, not being a case in which it is competent for him to inflict punishment, shall have authority to call and examine witnesses, and record their evidence on solemn affirmation, and to search for concealed articles, taking care that no search be made in a dwelling-house between sunset and sunrise without urgent occasion.

Power to enter limits of other villages.

Clause 2.—He shall also have authority, in carrying out any search or any pursuit of supposed criminals, to enter and act within the limits of other villages, being bound however to give immediate information to the Police-patel thereof, who shall afford him all the assistance in his power, and be immediately responsible for continuing the search and pursuit.

Power to try and punish for petty assault or abuse.

14. The Police-patel shall have authority to try and, on conviction, to punish with confinement in the village-chaunri, for a period not exceeding twenty-four hours, any person charged with committing within the limits of the village petty assault or abuse: Provided the charge be laid within eight days of the offence having been committed.

Commissioner of Police may authorize Magistrate to commission Police-patel to try certain offenders.

15. *Clause 1.*—It shall be lawful for a Commissioner [a] by an order in writing to authorize any Magistrate of a district to issue a commission to any person exercising the office of a Police-patel, empowering such Police-patel to try any person charged with any of the following offences committed within the limits of the village in which he is Police-patel, that is to say:—

mischief or petty theft, when the estimated value of the property stolen, or of damages sustained, does not exceed two rupees;

resistance or refusal to obey a lawful order issued by such Police-patel personally.

Power of patel to punish.

Clause 2.—And it shall be lawful for a Police-patel so empowered to sentence any person convicted before him of any of the above acts to punishment by fine not exceeding rupees five, or confinement in the village-chaunri for a period not exceeding forty-eight hours, the confinement, in cases of resistance or refusal to obey a lawful order, to be awardable only on a failure to pay a fine.

Power to prohibit, and to punish for—

[b]**16.** The Police-patel, when and as long as he shall be empowered under section 15, clause 1, shall also have authority to punish by a fine not exceeding one rupee, or, in default of payment, by confinement in the village-chaunri

[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] During such time as Part II or Part III of the Bombay Village Sanitation Act, 1889, and the rules made thereunder, are in force in any village, cls. 2, 3 and 4 (except the first two and the last thirteen words), and cl. 5, of s. 16 of Bom. Act VIII of 1867 cease to have any operation therein—see Bom. Act I of 1889, s. 3, in Vol. III of this Code.

for a period not exceeding twelve hours, any person committing any of the nuisances or disorderly acts below described, and to forbid the continuance or repetition of such nuisances or acts, that is to say :—

1. any person who wantonly or cruelly beats, ill-uses or tortures any animal : — beating, &c., animal;

2. any person who bathes or washes in, or otherwise defiles or causes to be defiled, any public well, tank or reservoir, so as to render it less fit for any purpose for which it is set apart : — bathing, washing in, or defiling, well, etc.;

3. any person who deposits in forbidden places any dirt, filth or rubbish : — depositing dirt, etc. ;

4. any person who, on any public street, passage or thoroughfare, commits nuisance by easing himself, or who is, from intoxication, riotous, disorderly or incapable of taking care of himself : — committing nuisance, etc. ;

5. any person

who without sufficient cause wilfully allows to accumulate any offensive matter in cesspools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers, or — accumulating offensive matter in cesspools, etc.;

who without sufficient cause wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like, or — allowing offensive matter to issue on thoroughfare ;

who deposits the bodies of dead animals, or refuse or filth of any description, either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community. — depositing dead bodies so as to corrupt water for drinking.

17. The proceedings under sections 14, 15 and 16 shall be oral and held in presence of the parties, and it shall be optional with the complainant to withdraw his complaint at any time before conviction is recorded. — Proceedings how taken under sections 14, 15 and 16.

The Police-patel shall record the names of the parties, the finding, sentence or order, or the withdrawal of the charge, with the date of proceedings, and shall forward the same to the Magistrate to whom he is immediately subordinate, in such form and through such channel, and at such times, as the Magistrate of the district shall prescribe.

Power to cancel commission issued under section 15.

18. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner[a], by an order in writing, to cancel either in whole or in part any commission issued under section 15[a].

Unclaimed property.

19. The Police-patel shall take charge of all unclaimed property found within his village, or made over to him under the provisions of the Bombay District Police Act of 1867[b], and shall forthwith make a report to the Magistrate [c] to whom he is subordinate, and act thereafter as he may be directed by the said Magistrate, unless the property be of a description coming within the provisions of the Cattle-trespass Act, 1871 [d], in which case the Police-patel shall be guided by that enactment. VII of 1867. I of 1871.

Prosecution under other Regulations, etc., for offence punishable by Act.

20. Nothing contained in this Act shall be construed to prevent the prosecution of any person under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act:

Provided that no person shall be punished twice for the same offence.

Provision in case of absence, sudden illness, etc., of Police-patel.

21. In case of the Police-patel being unable to attend to his duty, owing to urgent absence from the village, sudden illness or other cause, he shall place a competent kinsman, or failing a competent kinsman some other competent person, in charge of his office, making an immediate report to the Magistrate to whom he is immediately subordinate; and the person so placed in charge shall, until the receipt of instructions to the contrary, continue to act for the Police-patel in all his duties except those which involve the trial and punishment of offenders.

"District Police-station" defined.

22. The term "District Police-station" in this Act shall include the villages or places within the limits of the charge of a Police-officer in charge of a station.

23.—[*Application of Act to Sindh.*] *Repealed by Act XII of 1876.*

Short title.

24. This Act may be cited as the Bombay Village Police Act, 1867.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] Printed *supra*, p. 108.

[c] As to duty of Magistrate in certain cases, see Bom. Act IV of 1890, s. 58, in Vol. III of this Code.

[d] The reference to Act III of 1857 is altered in accordance with Act I of 1871, s. 2. (For Act I of 1871 see the revised edition, as modified up to 1st March, 1891, published by the Legislative Department.)

THE BOMBAY FERRIES ACT, 1868.

CONTENTS.

PREAMBLE.
SECTIONS.
1. [*Repealed.*]
2. Government may constitute public ferries, establish new and discontinue existing ferries.
3. Rates of toll.
Exemption from toll.
4. Appointment and salaries of toll-keepers, etc.
5. Government may lease public ferries by public auction or private contract.
6. Acts of servant of contractor.
7. Table of tolls to be hung up.
8. Penalty in respect to table of tolls.
9. Penalty for taking unlawful toll.
10. Penalty for wilful delay.
11. Penalty for refusal or evasion of toll, and for obstruction or damage.
12. Officers who may make rules for regulation of public ferries.
13. Penalty for conveying passengers or goods without license at Bombay.
Proviso.
14. Penalty for carrying passengers, etc., within three miles of public ferry.
14A. Penalty for conveying animal, etc., across creek or ferry near toll-bridge;
for conveying passengers, etc., near such bridge.
15. Trial of offences in Bombay;
in places out of city.
Recovery of fines.
16. Application of proceeds of tolls, farms and penalties.
17. Government may delegate powers.
18. Short title.

BOMBAY ACT No. II OF 1868 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 17th December, 1868.*)

An Act to amend the law relating to public ferries in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to public ferries in the Presidency of Bombay; It is enacted as follows :— Preamble.

1.—[*Repeal.*] *Repealed by Act XII of 1873.*

[a] Bom. Act II of 1868 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxiv.

The net proceeds of public ferries established under Bom. Act II of 1868, and all penalties inflicted and levied under the Act, are to be credited to the Local Fund constituted by Bom. Act I of 1884—see s. 44 of that Act, in Vol. III of this Code.

Government may constitute public ferries, establish new and discontinue existing ferries.

2. It shall be lawful for Government to declare by notification what ferries within the Presidency of Bombay shall be deemed public ferries, and also, by notification from time to time, to establish any new public ferry or discontinue any existing public ferry.

Rates of toll.

3. Tolls, according to such rates as shall from time to time be approved by Government, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise, carried over any public ferry:

Exemption from toll.

Provided always that no tolls shall be levied from—

(*a*) any soldier in uniform on duty:

(*b*) any Police-officer in uniform on duty:

(*c*) any person in the custody of the Police:

[a] (*d*) any person whom the Governor in Council shall, by notification in the Bombay Government Gazette, deem fit specially to exempt from payment of such tolls.

Appointment and salaries of toll-keepers, etc.

4. It shall be lawful for Government to provide for the appointment of toll-keepers, ferrymen and other servants for the management and conduct of any public ferry; and the salaries of such persons shall be defrayed from funds raised under this Act, or from other sources of local revenue, but not from the general or imperial revenues, except with the sanction of the Governor General in Council.

Government may lease public ferries by public auction or private contract.

5. It shall be lawful for Government to lease any public ferry by public auction or private contract, from year to year, or for any longer period not exceeding seven years, on such conditions as Government deems advisable, in which case a contract setting forth the conditions on which the ferry is to be held shall be executed by the contractor or farmer, and security shall be given by him for its due fulfilment, and any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction, as the case may be, may be enforced in the same manner as a demand for the land-revenue under the law for the time being in force, so far as applicable.

Acts of servant of contractor.

6. When a public ferry has been duly leased or farmed out,

every servant of the lessee, contractor or farmer shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public which he shall be required to do by any regulation made by the lessee, contractor or farmer, and approved by Government, and of which regulation such servant shall have had notice, and

[a] Cl. (*d*) was added by Bom. Act II of 1878, s. 1.

every such servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing, and

every person employed by or on behalf of such lessee, contractor or farmer to do any act upon the ferries shall be deemed to be a servant of the lessee, contractor or farmer.

Table of tolls to be hung up.

7. It shall be the duty of every toll-keeper, toll-contractor or farmer to hang up in some conspicuous place at his ferry-station a table of tolls, written or printed in English and in the language of the district.

Penalty in respect to table of tolls.

8. Any toll-keeper or toll-contractor or farmer

who shall neglect to hang up and keep in good order and repair a table of tolls as aforesaid, or

who shall wilfully remove, alter or deface the same, or allow it to become illegible,

shall be liable on each conviction to a penalty not exceeding ten rupees.

Penalty for taking unlawful toll.

9. Any toll-keeper or other person appointed as in section 4, who shall neglect to take the due toll, or shall ask or take any toll other than is allowed by the table of tolls, and

any toll-contractor or farmer, or any person in the service of a toll-contractor or farmer, who shall ask or take any toll in excess of that allowed by the table of tolls,

shall be liable to a penalty not exceeding fifty rupees.

Penalty for wilful delay.

10. Any toll-keeper or other person appointed as in section 4, or toll-contractor or farmer or person in the service of a toll-contractor or farmer, who without good reason shall delay any passenger, cart, carriage, animal or goods, shall be liable to a penalty not exceeding fifty rupees.

Penalty for refusal or evasion of toll, and for obstruction or damage.

11. Any person

who shall refuse to pay the lawful toll, or

who, with intent of avoiding payment thereof, shall pass through any ferry-station without paying the toll, or

who shall obstruct in the execution of his duty any toll-keeper or other person lawfully engaged in the management or conduct of a public ferry, and also

any person who shall maliciously damage any toll-bar, boat or other thing belonging to a public ferry, or

who shall maliciously remove, alter, destroy or damage any table of tolls hung up as hereinbefore directed,

shall be liable to a penalty not exceeding fifty rupees, over and above the value of the damage done.

Officers who may make rules for regulation of public ferries.

12. The Senior Magistrate of Police in the city of Bombay, and the Collector of the district elsewhere, may, subject to such general directions as Government from time to time may issue, make rules to determine the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in any public ferry-boat at one trip, and for the safe, speedy and convenient carriage and landing of passengers and property, and for keeping the ferry-boats in good order, and otherwise for the due discharge of their duty by toll-contractors or farmers, toll-keepers, ferrymen and other persons employed at a public ferry;

and any toll-contractor or farmer, toll-keeper, ferryman or other person infringing or disobeying any such rule shall be liable to make good any loss or damage caused thereby, which loss or damage may be summarily ascertained by any Magistrate within whose jurisdiction the offence was committed, and the amount thereof may be recovered as any penalty under this Act may be recovered.

Penalty for conveying passengers or goods without license at Bombay.

13. Any person who, without the special license of Government, shall convey for hire any passenger, animal, cart, carriage or goods from any part of the city of Bombay across the harbour of Bombay to the mainland, or any of the adjacent islands, or from the mainland or any of the adjacent islands to any part of the city of Bombay, shall be liable to a penalty not exceeding five hundred rupees;

Proviso.

but this penalty shall not apply to the conveyance by boat for hire of passengers, animals, carts, carriages and goods from one part of the city of Bombay to any other part thereof, nor to any person specially hiring a boat for the conveyance of himself or his family or friends, or servants or goods, nor to the person letting such boat for hire for the said purpose.

Penalty for carrying passengers, etc., within three miles of public ferry.

14. Any person who, except as in the section last preceding, shall convey for hire any passenger, animal, cart, carriage or goods across any creek or river within the Presidency of Bombay to any point on the opposite shore or bank, not being more than three miles on either side above or below any public ferry, without the license of the Collector of the district in which the ferry is situated, shall be liable to a penalty not exceeding five hundred rupees.

Penalty for conveying animal, etc., across creek

[a] **14A.** Any person who, except as is aforesaid, shall convey for hire any animal, cart, carriage or goods across any river or creek between two points both of which are less than three miles distant from a bridge at which under

[a] S. 14A was inserted by Bom. Act II of 1878, s. 2.

the provisions of any law for the time being in force a toll is leviable on animals, carts or carriages; or — or ferry near toll-bridge;

who shall convey for hire any passenger, or any pálankín, dúlí, pálná or tonjon, or other thing across any river or creek between two such points as aforesaid when under the provisions of any law for the time being in force a toll is leviable at the bridge on passengers, pálankíns, dúlís, pálnás, tonjons or such other thing, — for conveying passengers, etc., near such bridge.

shall be liable to a penalty not exceeding five hundred rupees.

15. In the city of Bombay offences against this Act shall be summarily heard and determined by any Magistrate of Police, and all fines imposed may, in default of payment, be levied under the warrant of such Magistrate by distress and sale of the goods of the offender. — Trial of offences in Bombay;

In places not within the limits of the city of Bombay offences against this Act shall be inquired into and determined by any Magistrate exercising jurisdiction in the district in which the offence has been committed, and all fines imposed may be levied in the manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1882 [a]. — in places out of city. — Recovery of fines. — X of 1882.

[b] **16.** *Clause 1.*—In each district the proceeds from tolls and farms of public ferries, and from penalties levied under this Act, shall form the ferry-fund of such district, and shall be appropriated in the first instance to the maintenance of the public ferries of the district, and the improvement of the roads leading to the said ferries, the surplus, if any, being expended on local works in the district in such manner as Government may from time to time direct. — Application of proceeds of tolls, farms and penalties.

Clause 2.—The limits of each district for the purposes of this section shall be such as Government may from time to time determine.

Clause 3.—When a public ferry is partly in one district and partly in another, it shall be lawful for Government to assign to each district such proportion of the proceeds as they shall deem fit.

17. Government may delegate, under such restrictions as may seem fit, any of the powers conferred on it by this Act, *ex officio*, to any [c] Commissioner, Collector, Magistrate or other person. — Government may delegate powers.

18. This Act may be cited as the Bombay Ferries Act, 1868. — Short title.

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[a] The reference to s. 61 of Act XXV of 1861 is altered in accordance with Act X of 1872, Sch. V, and Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

[b] S. 16 is repealed, except in Aden and the City of Bombay, by Bom. Act I of 1884, s. 2, printed in Vol. III of this Code.

[c] Words repealed by Bom. Act III of 1886 are omitted.

BOMBAY ACT No. III OF 1868.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 1st January, 1869.)

An Act to amend the schedule annexed to Act No. V of 1867 [a] (Bombay).

Preamble.

WHEREAS it has been deemed expedient to revise the schedule annexed to Act No. V of 1867 [a] (Bombay), and to empower Government to amend the said schedule so as to avoid the necessity of having recourse to legislation when any modification is required in the list of persons privileged under section 15 of (Bombay) Act XII of 1866 [b]; It is enacted as follows :—

Schedule substituted in Act XII of 1866.

1. [c] The schedule annexed to this Act shall be taken to be and shall be the schedule to which reference is made in section 15 of Act No. XII of 1866 (Bombay) [b].

Power to amend schedule by notification.

2. It shall be lawful for Government from time to time by notification to amend the schedule to which reference is made in section 15 of (Bombay) Act XII of 1866 [b], and the schedule so amended shall be taken to be, and shall be, from the date of such notification, the schedule to which reference is made in section 15 of the said Act:

Provided always that no person shall be included in the said schedule who is not a member of one of the late reigning families in Sindh.

SCHEDULE.

[Printed *supra*, p. 96.]

THE BOMBAY LOCAL FUNDS ACT, 1869.

CONTENTS.

PREAMBLE.

SECTIONS.

1 to 5. [*Repealed.*]

[a] Bom. Act V of 1867 was repealed by Act XII of 1873.
[b] Printed *supra*, p. 95.
[c] Portion repealed by Act XII of 1873 is omitted.

SECTIONS.

6. Levy of one anna cess on every rupee of land-revenue for purposes of Act.
Proviso.
7. Rules for assessment.
8. Cess to be levied as land-revenue.
9 to 14. [*Repealed.*]
15. Sindh and City of Bombay excluded.
16. Short title.

BOMBAY ACT No. III OF 1869[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 3rd April, 1869.*)

An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement[b].

WHEREAS it is expedient to provide funds for local works of public utility and convenience, and to make better provision for education and sanitary improvements in the Presidency of Bombay[b]; It is enacted as follows:— Preamble.

1 to 5.—[*Power to define limits of districts; Local fund committees; officers and establishments.*] *Repealed (except as to Aden) by Bom. Act I of 1884.*

6. It shall be lawful for Government to levy, for the purposes of this Act, on the conditions and in the manner hereinafter described, from all lands in the Presidency of Bombay, except jágír-lands not under the general Regulations, and also from every farmer of land or saír revenue in respect of any such farm taken from the Collector or other officer on behalf of Government after the date on which this Act comes into operation, a cess not exceeding one anna on every rupee that is assessable to the ordinary land-revenue, or that would have been so assessable had there been no alienation of such revenue, and on every rupee that is payable by such farmer of land or saír revenue in respect of such farm: Levy of one anna cess on every rupee of land-revenue for purposes of Act.

Provided that in respect of lands of which a settlement for a term of years is for the first time made after this Act comes into operation such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term. Proviso.

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[a] The net proceeds of the cess levied under Bom. Act III of 1869 are to be credited to the Local Fund constituted by Bom. Act I of 1884—see s. 44 of that Act, in Vol. III of this Code.

[b] Words repealed (except as to Aden) by Bom. Act I of 1884 are omitted.

Rules for assessment.

7. In assessing this cess on alienated villages as defined in the [a] Bombay Land-revenue Code, 1879 [b], the following rules shall be adopted :— Bom. V of 1879.

I.—If the village has been surveyed and assessed on the principles laid down in the [a] Bombay Land-revenue Code, 1879 [b], the cess shall be fixed on the total annual assessment of the village as made by the survey-officers.

II.—If the village has come under summary settlement under (Bombay) Act II [c] or (Bombay) Act VII [d] of 1863, the cess shall be fixed, until the village is brought under the preceding rule, on the total annual assessment as settled for the purposes of summary settlement.

III.—On villages not included in the preceding rules, the cess shall be fixed on the old or kammál rate recorded in the Collector's books; but [e]if no such rate is so recorded or if the rate so recorded is[e] objected to by the holder or proprietor of the alienated village, then the cess may be fixed as agreed on by the Collector and such holder or proprietor, or failing agreement, then by a rough survey and assessment to be made by survey-officers, the expense of such rough survey being borne half by Government and half by the holder or proprietor of such village.

Cess to be levied as land-revenue.

8. The cess described in sections 6 and 7 [f] shall be levied in the same manner, and under the same provisions of law, as the ordinary land-revenue and through the agency of such officers as shall from time to time be appointed for the purpose by the Collector, acting under the general control of Government or of the [g]Commissioner of the division[g], or other officer from time to time duly empowered on that behalf by Government.

The provisions of the law relative to the assistance to be given to superior holders for the recovery of their dues from their tenants and occupants under them shall be applicable to all superior holders, whether of alienated or unalienated land in respect of the recovery of this cess from their tenants and occu-

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[a] "The" was inserted by Act XVI of 1895.

[b] This reference was substituted for the original reference by Bom. Act I of 1884, s. 75 (*a*), which, however, does not extend to Aden. The Act of 1879 is printed *infra* and the Act of 1884 in Vol. III of this Code.

[c] Printed *supra*, p. 17.

[d] Printed *supra*, p. 65.

[e-e] These words were substituted for the original words by Bom. Act I of 1884, s. 75 (*c*), which, however, does not extend to Aden.

[f] Words repealed by Bom. Act III of 1886 are omitted.

[g-g] These words were substituted for the original words by Bom. Act I of 1884, s. 75 (*b*), which, however, does not extend to Aden.

pants, and shall be applicable also to occupants of land under the [a] Bombay Land-revenue Code, 1879, [b], for the recovery of this cess from their tenants or joint occupants.

Bom. V of 1879.

9 to 13.—[*Accounts; assignments; administration of other funds; power to make rules; "Collector" and "Sub-Collector" defined.*] *Repealed* (*except as to Aden*) *by Bom. Act I of 1884.*

14.—[*Cess collected previous to operation of Act.*] *Repealed by Act XII of 1873.*

15. This Act is not applicable to the Province of Sindh or to the City of Bombay.

Sindh and City of Bombay excluded.

16. This Act may be cited as the Bombay Local Funds Act, 1869.

Short title.

BOMBAY ACT No. I OF 1872.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 13th June, 1872.*)

An Act to amend Act XIII of 1856 [c].

WHEREAS it is expedient to amend the law relating to the Bombay City Police Superannuation Fund, and to provide for the granting of pensions to members of the Bombay City Police-force in cases not provided for by Act XIII of 1856[c]; It is hereby enacted as follows :—

Preamble.

1.—[*Repeal of enactments.*] *Repealed by Act XII of 1876.*

2. For section 17 of the said Act the following section shall be substituted :—

Substitution of new section for section 17, Act XIII, 1856.

[Printed in Vol. I of this Code, p. 78.]

3. The fees levied and all sums which the Commissioner of Police is entitled to retain under the provisions of section 28 [d] of Act XLVIII of 1860[e] shall be paid and transferred to the credit of the Bombay City Police Superannuation Fund and be applied as hereinafter provided.

Poundage-fees, etc., to be paid to fund.

4. For section 18 of the said Act the following section shall be substituted :—

Substitution of new section for section 18, Act XIII, 1856.

[Printed in Vol. I of this Code, p. 78.]

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[a] "The" was inserted by Act XVI of 1895.
[b] This reference was substituted for the original reference by Bom. Act I of 1884, s. 75 (*a*), which, however, does not extend to Aden.
[c] Printed in Vol. I of this Code, p. 74.
[d] Printed in Vol. I of this Code, p. 114.
[e] Portion repealed by Act XII of 1876 is omitted.

Substitution of new section for section 19, Act XIII, 1856.

5. For section 19 of the said Act the following section shall be substituted :—

[Printed in Vol. I of this Code, p. 79.]

Gratuity to heirs of Police-officers killed in execution of duty.

6. If the death of any member of the said Police-force shall, at any time, be occasioned by any wound or injury received by him in the execution of his duty, it shall be competent to [a] Government to sanction payment from the said superannuation-fund to the widow, child or children, parent or parents, of the deceased, of such gratuity or allowance as to [a] Government may seem fit.

The word "parent" shall include father and mother, and grandfather and grandmother, and the word "child" shall include son and daughter, and grandson and granddaughter, and step-son and step-daughter.

Provision for payment of pension in special cases.

7. It shall be lawful for [a] Government to order that any member of the aforesaid Police-force of a class not entitled to the benefit of the uncovenanted service pension rules, who may be discharged from the force [b] for any reason other than his own misconduct, [b] and who may not otherwise be entitled to a pension or gratuity under this or any other Act, shall receive out of the Police superannuation-fund, from and after the date of his discharge as aforesaid, such gratuity as [a] Government may think fit, or a monthly pension to be fixed by [a] Government, at a rate in proportion to the length of service in the Police-force of the person so discharged:

Provided that the amount of the pension so granted shall not exceed one-fourth of his monthly salary or authorized official allowances, calculated on an average of his pay and allowances during the five years immediately prior to his discharge:

and provided also that, in the case of a pension being granted under this section, such member of the Police-force as aforesaid shall have actually served in the said force for not less than five years immediately prior to his discharge.

Police-officers not entitled absolutely to pension or refund of subscription, etc., nor their heirs to gratuity, etc.

8. Nothing hereinbefore contained shall be construed to entitle any member of the said Police-force absolutely to any pension or gratuity, or to prevent him from being dismissed without any pension or gratuity whatever, or to entitle him to any refund of any deduction made from his pay while he shall have been a member of the said force, or absolutely to entitle any child, widow or parent of any deceased member of the said Police-force to any such gratuity or allowance as hereinbefore provided.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b-b] These words were substituted for the original words by Bom. Act II of 1879, s. 2.

9.—[*Pensions to members of Police-force discharged during year preceding passing of Act.*] *Repealed by Act XII of 1876.*

10. This Act shall be construed and read as part of Act XIII of 1856 [a]. Construction.

THE BOMBAY DISTRICT MUNICIPAL ACT.

CONTENTS.

I.—Preliminary.

Sections.

1. [*Repealed.*]
2. Short title.
3. Interpretation-clause.

II.—Constitution of Municipalities.

4 to 16. [*Repealed.*]

III.—Municipal Property and Fund.

17. Property vested in Municipality.
18. Municipal fund.
19, 20. [*Repealed.*]
21. Imposition of taxes.
22. Municipality may charge fees for licenses.

IV.—Application of Municipal Property and Funds.

23. Municipal property and funds where applicable.
24. Duties of Municipalities.
Management of public institutions maintained by municipalities to vest in them.
25. Acquisition of land.
26. Surplus funds how dealt with.

V.—General Conservancy.

27. [*Repealed.*]
28. Power regarding streets, etc.
29. New streets.
30. Projecting or receding houses.
31. Combustible materials not to be used.
32. Level of houses.
33. Notice of new buildings.
34. Regulation of huts.
35. Improvement of huts.

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[a] Printed in Vol. I of this Code, p. 74.

SECTIONS.

36. Provision of privies, etc.
37. Sufficient drainage of houses.
38. Unauthorized drains, etc.
39. Municipal control over drains, etc.
40. Inspection of drains, etc.
41. Troughs and pipes for rain-water.
42. Removal of projections.
43. Regulation of hedges, trees, etc.
44. Fixing of brackets, etc., to houses.
45. Naming streets and numbering houses.
46. Ruinous or dangerous buildings.
47. Displacing pavements, etc.
48. Obstructions.
49. Hoards to be set up during repairs, etc.
50. Fencing and lighting during repairs, etc.
51. Timber not to be deposited or hole made in street without permission.
52. Dangerous places.
53. Depositing dust, etc.
54. Discharging sewage, etc.
55. Non-removal of filth, etc.
56. Removal of night-soil.
57. Halalkhor-service.
58. Filthy buildings, etc.
59. Power to enter and inspect, etc., buildings.
60. Bathing-places.
61. Fouling water.
62. Abatement of nuisances.
63. Using offensive manure, etc.
64. Tethering cattle, etc.
65. Consumption of smoke.
66. Licensing markets and slaughter-houses.
67. Opening, closing and letting of markets and slaughter-houses.
68. Search for unwholesome articles.
69. Regulation of certain trades.
70. [*Repealed.*]
71. Slaughter-houses, etc., beyond municipal limits.
72. [*Repealed.*]
73. Special sanitary exigencies.
74. Penalties.
75. Execution of notices.

VI.—PROCEDURE, PROSECUTIONS, SUITS, ETC.

76. Service of notices.
77. Municipality, in default of owner or occupier, may execute works and recover expenses.
Power to levy charges on occupier, who may deduct same from rent.
Occupiers not to be liable for more than amount of rent due.
Proviso.
78. Occupier in default of owner may execute works and deduct expenses from rent.

SECTIONS.

79. Proceedings if any occupier opposes execution of Act.
80. Entry for purposes of Act.
81. Arbitration in cases of compensation, etc.
82. Municipality may prosecute.
83. Damage to municipal property how made good.
84. Jurisdiction of Magistrate.
85. Distress lawful though defective in form.
86. [*Repealed.*]
87. Powers of Police-officers.

VII.—MUNICIPAL ACCOUNTS AND GOVERNMENT CONTROL.

88. Quarterly and annual accounts.
Budget estimates.
89. Audit of accounts.
90. Transmission of accounts to Government.
91. [*Repealed.*]

VIII.—PUBLICITY OF MUNICIPAL PROCEEDINGS.

92, 93. [*Repealed.*]
94. Publication of accounts.
95 to 99. [*Repealed.*]

BOMBAY ACT No. VI OF 1873 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th May, 1874.*)

An Act for the better management of Municipal affairs in Mufassal Towns and Cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than the City of Bombay: It is enacted as follows:—

I.—PRELIMINARY.

1.—[*Repeal of enactments.*] *Repealed by Act XII of 1876.*

2. This Act shall be cited as the Bombay District Municipal Act [b]. Short title.

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[a] Bom. Act VI of 1873 extends to the whole of the Presidency of Bombay, except the City of Bombay—see Bom. Act II of 1884, s. 1, printed in Vol. III of this Code.

Bom. Act II of 1884 is to be construed as one with Bom. Act VI of 1873—see Bom. Act II of 1884, s. 2.

Bom. Act V of 1890 (Municipal Servants) is to be read with Bom. Act VI of 1873—see Bom. Act V of 1890, s. 2 (2), printed in Vol. III of this Code.

Bom. Act VI of 1873 has been extended, by notification under the Scheduled Districts Act, 1874, to the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxv.

[b] Bom. Acts VI of 1873 and II of 1884 may be cited together as the Bombay District Municipal Acts of 1873 and 1884—see Bom. Act II of 1884, s. 1.

Interpretation-clause.

3. The following words and expressions in this Act shall have the meanings hereby assigned to them,[a] unless there be something in the subject or context repugnant to such construction :—

[b] the word "Commissioner" shall mean any person legally a member of a municipality constituted under this Act:[c]

the word "land" shall include buildings, trees and appurtenances thereupon: [d]

[e] the word "street" shall mean any street, way, road, square, court, alley or passage over which the public have a right of way, or which is used by the public as a means of access:

the word "building" shall mean any house, hut, shed or enclosure, whether used as a human dwelling or otherwise, and shall include compound-walls, door-steps, verandahs and the like:

the word "owner" shall mean the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account, or as agent or trustee for any other person or society, or for any religious or charitable purposes, or who would so receive the same if such land or building were let to a tenant: Provided that no person receiving the rent of land or premises as agent or trustee for another person shall be liable to do anything by this Act required to be done by the owner of such land or premises unless he have sufficient funds of or due to the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act if he can prove that the default was occasioned by reason of his not having funds of or due to the owner sufficient to defray the expense of doing the act required.

II.—Constitution of Municipalities.

4 to 16. [*Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*]

III.—Municipal Property and Fund.

Property vested in municipality.

17. All property of the nature hereinafter specified shall be vested in and belong to the municipality, and shall, together with all other property, of

[a] For further definitions, see Bom. Act II of 1884, s. 4, cls. (*1*), (*2*) and (*3*), printed in Vol. III of this Code.

[b] The definitions of "Collector," "Magistrate of the district" and "Magistrate," repealed by Bom. Act III of 1886 are omitted.

[c],[d] The definitions of "place" and "bazar," which were repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force, are omitted.

[e] This definition of "street" was substituted for the original definition by Bom. Act II of 1884, s. 49 (*a*).

what nature or kind soever, which may become vested in the municipality, be under their direction, management and control, and shall be held and applied by them as trustees for the purposes of this Act; that is to say :—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and nightsoil-depôts and public buildings of every description not specially reserved by Government.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and watercourses in, alongside or under, any public [a] street, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal-matter or filth or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools, or elsewhere.

(*d*) All public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto.

(*e*) All land transferred to them by Government or by gift or otherwise for local public purposes.

(*f*) All public streets, [b]not being portions of provincial highroads or trunk roads specially reserved by Government,[b] and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets [c].

Municipal fund.

18. All moneys received by or on behalf of the municipality by virtue of this or any other Act; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by them under this Act; all proceeds of land or other property sold by the municipality, and all rents accruing from their land or property; as also all interest, profits and other moneys accruing by gifts or transfers from Government or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section.

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[a] The word "public" was inserted by Bom. Act II of 1884, s. 49 (*b*).

[b-b] These words were substituted for the original words by Bom. Act II of 1884, s. 49 (*b*).

[c] Words which were repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force, are omitted.

19. *Clause 1.*—[*Existing municipalities made municipal districts.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

Clause 2.—[*Pending proceedings.*] *Repealed by Act XII of 1876.*

20.—[*Existing municipalities not made into municipal districts.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

Imposition of taxes.

21. *Clause 1.*—Every municipality desiring from time to time to impose any tax, toll or other impost for the purposes of this Act shall give notice of such intention, and shall in such notice define the nature of the tax, toll or other impost, the class of persons or property to be made liable thereto, and the amount to be imposed.

Clause 2.—Any inhabitant of the municipal district objecting to such tax, toll or impost may, within a fortnight from the date of the said notice, send his objection in writing to the municipality, and the municipality shall take such objection into consideration, and report their opinion thereon to the Governor in Council.

Clause 3.—When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if in the opinion of the Governor in Council they are insufficient, the Governor in Council may approve of the provision for the said tax, toll or impost in the rules, and such tax, toll or impost shall be imposed accordingly.

Clause 4.—[*Repealed by Act XVI of 1895.*]

[a] *Clause 5.*—If any tax imposed under this section is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Governor in Council may require the municipality of such district to assign and pay to the district local board or to the táluqá local board having authority in the táluqá in which such municipal district is situate, or partly to the said district local board and partly to the said táluqá local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

Municipality may charge fees for licenses.

22. When any license is granted by the municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any street or

[a] Cl. 5 was added by Bom. Act II of 1884, s. 49 (*c*).

other land vested in the municipality, the municipality may charge a fee for such license or permission[a].

IV.—Application of Municipal Property and Funds.

23. All property vested in the municipality, and all funds received or raised by them in accordance with the provisions of this Act, shall be applied for the purposes of this Act within the limits of the municipality: Municipal property and funds where applicable.

Provided always that it shall be lawful for the municipality, with the sanction of the Governor in Council or any officer duly authorized by him, to make a contribution towards expenditure incurred in any other municipality or in any [b]area subject to the authority of a local board or of a cantonment committee, or out of any public funds,[b] for measures affecting the public health, instruction or convenience, which are calculated to benefit the residents within the limits of the contributing municipality.

[c] **24.** It shall be the duty of every municipality to make adequate provision, out of the municipal property and funds, for the following matters within the municipal district under its authority, namely :— Duties of Municipalities.

(*1*) lighting of public streets, places and buildings;

(*2*) watering public streets and places;

(*3*) cleansing of public streets, places and sewers, scavenging, removing of noxious vegetation, and the abatement of all public nuisances;

(*4*) extinguishing of fires and protecting of life and property when fires occur;

(*5*) regulating or abating offensive or dangerous trades or practices;

(*6*) removing obstructions and projections in public streets or places;

(*7*) securing or removing dangerous buildings or places and reclaiming unhealthy localities;

(*8*) providing, changing and regulating places for the disposal of the dead;

(*9*) constructing, altering and maintaining public streets, bridges, causeways, culverts, municipal boundary-marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, baths, washing-places, drinking-fountains, tanks, wells, dams, and the like;

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[a] Portion which was repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force, is omitted.

[b-b] These words were substituted for the original words and figures by Bom. Act II of 1884, s. 49 (*d*).

[c] This section was substituted for the original s. 24 by Bom. Act II of 1884, s. 49 (*e*).

(*10*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;

(*11*) naming of streets and numbering of houses;

(*12*) public vaccination and the registration of births and deaths;

(*13*) establishing and maintaining public hospitals and dispensaries and providing public medical relief;

(*14*) providing special medical aid and accommodation for the sick in time of epidemic disease;

(*15*) establishing and maintaining middle class and primary schools;

and municipalities may, at their discretion, provide out of the said property and funds, either wholly or partly, for the cost of—

(*16*) erecting or maintaining public parks, gardens, libraries, museums, colleges, schools other than middle class or primary schools, lunatic asylums, halls, offices, dharmsálas, rest-houses and other public buildings;

(*17*) planting and maintaining of road-side and other trees;

(*18*) the taking of a census, and any lawful sanitary measure;

(*19*) the establishment and maintenance of relief and relief-works in time of famine or scarcity;

(*20*) a survey;

(*21*) any other measure likely to promote the public safety, health, convenience or education.

Management of public institutions maintained by municipalities to vest in them.

The management, control and administration of every public institution maintained out of municipal property and funds shall vest in the municipality which maintains the same: Provided that the extent of the independent authority of any municipality in respect of public education and its relations with the Government Educational Department shall from time to time be prescribed by Government.

Acquisition of land.

25. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the Governor in Council may, after obtaining possession of the same for Government under the Land Acquisition Act, 1894 [a], or other existing law, vest such land or building in the municipality on their paying the compensation awarded. I of 1894.

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

26. *Clause 1.*—It shall be lawful for the municipality to deposit at interest, with the Bank of Bombay or such other Bank as may hereafter be appointed to conduct the business of Her Majesty's Treasury at Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in Government securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary. Surplus funds how dealt with.

Clause 2.—All surplus-funds over and above what may be required for current expenses shall, unless placed at interest as above, be deposited in the Local Government treasury or such other place of security as may be sanctioned in the rules [a] of the said municipality [a].

V.—General Conservancy.

27. [*Municipalities to which provisions of Chap. V may be rendered applicable.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

28. *Clause 1.*—It shall be lawful for the municipality to lay out and make new public streets or roads, and to build bridges, tunnels and other works appertaining to the same, and to widen, open, enlarge or otherwise improve any such streets or roads, and to turn, divert, discontinue or stop-up any such streets or roads, and to sell the land, or such part thereof as may not be required for the purposes of this Act. Power regarding streets, etc.

Clause 2.—In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land necessary for the houses and buildings to form the said street, and may sell and dispose of the same, in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

29. Every person intending to lay out or make any new street shall give notice in writing thereof to the municipality, and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, if required by the municipality to do so, and the level, means of drainage, direction and width of every such street shall be fixed or approved by the municipality. New streets.

Whoever lays out, makes or builds upon any such street otherwise

[a-a] These words were substituted for the original words and figures by Bom. Act II of 1884, s. 49 (*f*).

than in accordance with the instructions so received shall be liable to the penalty hereinafter provided, and the municipality may cause any street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender and recoverable as hereinafter provided.

If no such level, means of drainage, direction or width be fixed, and no disapproval of the level, means of drainage, direction or width proposed be signified, or *ad interim* order for a specified period not longer than one month be issued by the municipality within one month, the street may be laid out and made in the manner specified in the notice.

Projecting or receding houses.

30. [a] *Clause 1.*—If any part of a house or building projects beyond the regular line of a public street either as existing or determined upon for the future, or beyond the front of the house or building on either side thereof, the municipality may, whenever such house or building has been either entirely or in greater part taken down or burned down or has fallen down, or if the projecting part thereof is a platform, verandah, step or some other structure external to the main house or building, at any time, by written notice, require such house or building, when being rebuilt, to be set back to or towards the said regular line, or the front of the adjoining houses or buildings, or the part or some portion of the part, projecting beyond the said regular line, or the front of the adjoining houses or buildings, to be removed, as the case may be, and the portion of land added to the street by such setting back or removal [a] shall thenceforth be deemed part of the public street and be vested in the municipality :

Provided always that the municipality shall make full compensation to the owner of any such house or building for any damage he may sustain, and, if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2.—The municipality may, upon such terms as they think fit, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated.

Combustible materials not to be used.

31. The external walls and covering of roofs of huts or other buildings erected or renewed after this Act comes into operation shall not be made of wood, cloth, canvas, grass, leaves, mats or other inflammable matters, unless with the written consent of the municipality, and the municipality may, by written notice, require any person who may have contravened or

[a-a] This portion was substituted for the original portion by Bom. Act II of 1884, s. 49 (*g*).

caused to be contravened the above provision to remove or alter the same as they may think fit.

Any person may give information and institute a prosecution under this section, and all expenses incurred in such prosecutions shall be recoverable from the owner of such hut or building as hereinafter provided.

Level of houses.

32. No house or building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river, or the sea, or some cesspool, or other suitable place which may be approved of by the municipality.

Notice of new buildings.

33. *Clause 1.*—Before beginning to erect any building, or to alter externally or add to any existing building, the person intending so to build, alter or add shall give to the municipality notice thereof in writing, and shall furnish to them, if required to do so, a plan showing the levels at which the foundation and lowest floor of such building are proposed to be laid by reference to some level known to the municipality, and all information they may require regarding the limits, design and materials of the proposed building and the intended situation and construction of the drains, sewers, privies and cesspools (if any) to be used in connection therewith.

Clause 2.—Within one month after receiving such notice the municipality may in writing issue such orders not inconsistent with this Act as they think proper with reference to such building.

If the municipality fail to issue written orders, whether of approval or otherwise, with reference to such building within the said period, the person originally giving notice may proceed to erect the building in question in the manner proposed by him to the municipality, provided that such building be in accordance with the provisions of this Act.

Clause 3.—If such building be begun or made without the notice or without affording the information above prescribed, or in any manner contrary to the legal orders of the municipality issued within the period aforesaid, or in any other respect contrary to the provisions of this Act, the person so building shall be liable to the penalty hereinafter provided, and the municipality may, by written notice, require such building to be altered or demolished as they may deem necessary.

Regulation of huts.

34. It shall not be lawful for any person to erect any range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the municipality; and the municipality may require such huts or

sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the municipality may think proper for ventilation, and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary.

And if any such huts or sheds be built without giving such notice to the municipality, or otherwise than as required by the municipality, the municipality may give written notice to the owner or builder thereof, or the owner or occupier of the land on which the same are erected or are being erected, to take down and remove the same within one month or to alter them as they may think fit.

Improvement of huts.

35. Whenever the municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are, by reason of the manner in which such huts or sheds are crowded together, or of the want of drainage and the impracticability of scavenging, attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the municipality for that purpose, to execute such operations as the municipality may deem necessary for the avoidance of such risk.

And, in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

If such huts or sheds be pulled down, the municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds after deducting all expenses shall be paid to the owner of the hut or shed, or, if the owner be unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same:

Provided always that in case any huts or sheds existing at the time when this Act comes into operation should be pulled down under this section by order of the municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined as hereinafter provided.

36. *Clause 1.*—In case the municipality shall be of opinion that any privy or cesspool, or additional privies or cesspools, should be provided for any house or building, they may by written notice call upon the owner of such house or building to provide the same in such manner as the municipality deem proper. Provision of privies, etc.

Clause 2.—The municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, to provide such latrines and urinals as may seem to them fit, and to cause the same to be kept in proper order, and to be daily cleaned.

Clause 3.—The municipality may by written notice require the owner or occupier of any house or building having a privy on his premises to have such privy shut out by a sufficient roof and a wall or fence from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy-door or trapdoor opening on to any street which they deem to create a nuisance.

37. *Clause 1.*—If any house or building in or near any street be at any time undrained, or not drained to the satisfaction of the municipality by a sufficient drain or pipe communicating with some sewer, drain, stream, river or the sea, or other suitable place, and if there be such means of drainage within fifty feet of any part of such house or building, the municipality may by written notice call upon the owner to construct or lay from such house or building a drain or pipe of such size and materials, at such level, and with such fall, as they think necessary for the draining of such house or building. Sufficient drainage of houses.

Clause 2.—All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong with proper traps, or other coverings or means of ventilation, and the municipality may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

38. *Clause 1.*—Whoever, without the written consent of the municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the municipality by this Act, shall be liable to the penalty hereinafter prescribed, and the municipality may by written notice require such person to demolish, alter, re-make or otherwise deal with such drain as they may think fit. Unauthorized drains, etc.

Clause 2.—No building shall be newly erected or rebuilt over any sewer, drain, culvert, gutter, tunnel, water-pipe or water-course vested in the municipality by this Act without the written consent of the municipality, and the

municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

Municipal control over drains, etc.

39. *Clause 1.*—All sewers, drains, privies, house-gullies and cesspools within the municipal limits shall be under the survey and control of the municipality, and, if private, shall be altered, repaired and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the municipality may by written notice require such owner to alter, repair and put the same in good order in such manner as they think fit.

Clause 2.—If any such sewer, drain, privy, house-gully or cesspool be constructed, after this Act comes into operation, contrary to the directions or general regulations of the municipality or the provisions of this Act, or if any person without the consent of the municipality construct any new sewer, drain, privy, house-gully or cesspool, or construct, rebuild, or unstop any sewer, drain, privy, house-gully or cesspool which has been ordered by them to be demolished or stopped up or not to be made, every person so doing shall be liable to the penalty hereinafter provided, and the municipality may in addition require by written notice such person to demolish or make such amendment or alteration in any such drain or privy as they may think fit.

Inspection of drains, etc.

40. The municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings, with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be; and if upon such inspection it appears that the sewer, drain, privy, house-gully or cesspool is not in good order and condition, or that it has been constructed after this Act came into operation contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such sewer, drain, privy, house-gully or cesspool may belong, and shall be recoverable as hereinafter provided; but if the sewer, drain, privy, house-gully or cesspool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the municipality or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing and making good as aforesaid shall be defrayed by the municipality.

Troughs and pipes for rain-water.

41. The municipality may by written notice require the owner of every house and building in any public street to put up and keep in good condition

proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner, as they may think fit, so that it shall not fall upon the persons passing along the street.

Removal of projections.

42. *Clause 1.*—The municipality may by written notice require the owner or occupier of any house or building to remove or alter any projection, encroachment or obstruction which, although erected before this Act comes into operation in the place, shall have been erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to the safe and convenient passage along such street, or if the same projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof :

Provided always that, if such projection, encroachment or obstruction shall have been lawfully made, the municipality shall make reasonable compensation to every person who suffers damage by such removal or alteration ; and, if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2.—The municipality shall possess similar power, but shall not be under the obligation of making compensation, with respect to all such projections, encroachments or obstructions which shall be erected or placed after this Act comes into operation in the place.

Clause 3.—The municipality may give written permission to the owners or occupiers of houses or buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey thereof to an extent not exceeding four feet beyond the line of the plinth or basement-wall, and any person putting up such verandahs, balconies or rooms without such permission shall be liable to the penalty hereinafter provided.

Regulation of hedges, trees, etc.

43. The municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which they deem likely to overhang, endanger or obstruct, any public road or street, or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

Fixing of brackets, etc., to houses.

44. The municipality may erect or fix to the outside of any house or building brackets for telegraphic wires or lamps, and such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said house or building or any others in the neighbourhood.

Naming streets and numbering houses.

45. The municipality may from time to time cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

Any person who destroys, pulls down or defaces any such name or number, or puts up any name or number different from that put up by the municipality, and any owner or occupier who shall not at his own expense keep such number in good order after it has been put up, shall be liable to the penalty hereinafter provided.

Ruinous or dangerous buildings.

46. If, in any street, any house, building or wall, or anything affixed thereon, be deemed by the municipality to be in a ruinous state or likely to fall, or in any other way dangerous to the inhabitants of such house or building, or the neighbouring houses or buildings or the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; and shall cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure or repair such house, building, wall or thing affixed thereon, as the case shall require,

and if such owner or occupier do not begin to repair, take down or secure the same within three days after such notice, and complete such work with due diligence, the municipality shall cause all or so much of such house, building, wall or thing as they shall think necessary to be taken down, repaired or otherwise secured; and all the expenses incurred by the municipality shall be paid by the owner or occupier of the premises, and shall be recoverable as hereinafter provided:

Provided always that, if the danger be not of hourly imminence, it shall be at the discretion of the municipality to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard within two days, and to take action as above in the event of non-compliance with such notice.

Displacing pavements, etc.

47. Whoever displaces, takes up or makes any alteration in the pavement, gutter, flags or other materials, or in the fences, walls or posts, of any public street, without the written consent of the municipality or other lawful

authority, or, having displaced, taken up or made alteration in any such pavement, gutter, flags or other materials, or in fences, walls or posts, shall fail to replace or restore the same to the satisfaction of the municipality after notice to do so, shall be liable to the penalty hereinafter provided, and shall pay any expense which may be incurred in restoring the street, which shall be recovered in the manner hereinafter provided.

Obstructions.

48. Whoever, after this Act comes into operation in any place, shall build any wall, or erect or set up any fence, rail, post, step, stall or any erection or thing, or other obstruction or encroachment in any public street, or shall deposit, or cause to be placed or deposited, any box, bale, package of merchandise or any other thing in such street, or in or over or upon any open drain, gutter, sewer or aqueduct in such street, shall be liable to the penalty hereinafter provided;

and the municipality shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as hereinafter provided.

Nothing herein contained shall prevent the municipality from allowing any temporary erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in bye-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

Hoards to be set up during repairs, etc.

49. Every person intending to build or take down any building, or to alter or repair the outward part of any building, where any street will by means of such work be obstructed or rendered unsafe or inconvenient, shall, before beginning the same, and having first obtained a license in writing from the municipality so to do, cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street, and shall continue such hoard or fence standing and in good condition to the satisfaction of the municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the municipality.

Whoever contravenes the provisions of this section shall be liable to the penalty hereinafter provided.

Fencing and lighting during repairs, etc.

50. The municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts to be fixed across

or in any of the streets to prevent the passage of carriages, carts or other vehicles, cattle or horses, while such works are carried on, as to them shall seem proper;

and the municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be sufficiently lighted and guarded during the night; and whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any light, without the authority or consent of the municipality, shall be liable to the penalty hereinafter provided.

Timber not to be deposited or hole made in street without permission.

51. No person shall deposit any timber or building materials or make a hole in any street without the written permission of the municipality; and such permission shall be terminable at the discretion of the municipality; and, when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure to the satisfaction of the municipality, and shall cause the same to be sufficiently lighted during the night.

Whoever contravenes the provisions of this section shall be liable to the penalty hereinafter provided.

Dangerous places.

52. If any place whatsoever be, for want of sufficient repair, protection or enclosure, in the opinion of the municipality dangerous to passengers, they may by written notice require the owner thereof to repair, protect or enclose the same within twenty-four hours, so as to prevent danger therefrom.

Depositing dust, etc.

53. *Clause 1.*—Whoever deposits, or causes or permits any member of his family or household to deposit, any dust, dirt, dung, ashes, garden, kitchen or stable-refuse, or filth of any kind, or any animal-matter, or any broken glass or earthenware or other rubbish, or any other thing that is, or may be, a nuisance in any street or on any public quay [a], jetty or landing-place, or on any part of the seashore or the bank of a tidal river, whether above or below high watermark, or on any river-bank, except at such places, in such manner and at such hours as shall be fixed by the municipality,

and whoever obeys, or permits any member of his family or household to obey, the calls of nature in any street,

shall be liable to the penalty hereinafter provided.

Clause 2.—Whoever throws or puts, or causes or permits any member of his household to throw or put, any of the matter above described, or, except with the permission of the municipality, any nightsoil, into any sewer, drain,

[a] "Quay" was substituted for "quarry" by Act XVI of 1895.

culvert, tunnel, gutter or water-course, or into any drain communicating therewith, shall be liable to the penalty hereinafter provided.

Discharging sewage, etc.

54. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid or other matter from his premises, or from his land, to run, drain or be thrown or put upon any street, or to soak through a wall in any street, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the municipality, shall be liable to the penalty hereinafter provided.

Non-removal of filth, etc.

55. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, nightsoil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom and to cleanse and purify the same, or keeps or allows to be kept in or upon such building or land any animal in such a way as to be a nuisance, shall be liable to the penalties hereinafter provided.

Removal of nightsoil.

56. The municipality may from time to time fix the hours within which only it shall be lawful to remove any nightsoil or other such offensive matter; and, when they have fixed such hours and given public notice thereof by beat of bataki,

whoever removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

whoever at any time, whether such hours have been fixed by the municipality or not, uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof and of the stench therefrom, or

who wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

who places or sets down in any public place any vessel containing such offensive matter, or

who drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the municipality by public notice,

shall be liable to the penalty hereinafter provided.

Halalkhor-service.

57. *Clause 1.*—It shall be lawful after notice given to the occupier or

occupiers of any building or land, or to the occupiers generally within the municipal district or any recognised division thereof, for the municipality to perform by their agents the duties usually performed by sweepers with regard to such building, land, district or division, and to make suitable provision accordingly.

Clause 2.—When the municipality shall have made such provision, the occupier, or the several occupiers, of the building or land so served, or all the several occupiers of buildings or lands situated within the district or division regarding which such notice may have been given, shall become liable to pay any special cess which may be levied for such purposes under the rules [a]of the said municipality[a].

Filthy buildings, etc.

58. Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the municipality a nuisance to persons residing in the neighbourhood, or overgrown with rank and noisome vegetation, and who shall not, within twenty-four hours after notice in writing by the municipality to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be liable to the penalty hereinafter provided:

Provided that, if the state of the house or building be such as in the judgment of the municipality to render it unfit for human habitation, they may further prohibit the using thereof for that purpose until it is so rendered fit.

Power to enter and inspect, etc., buildings.

59. It shall be lawful for the municipality or any officer appointed by them for such purposes, any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part to be forthwith internally and externally limewashed or otherwise cleansed, for sanitary reasons.

Bathing-places.

60. The municipality may set apart sufficient public places or any part of the seashore (not being private property) for the purpose of being used as bathing-places; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants.

Fouling water.

61. Whoever, in disobedience of any order of the municipality under sec-

[a-a] These words were substituted for the original words and figures by Bom. Act II of 1884, s. 49 (*f*).

tion 60 [a], bathes in any stream, tank or reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes, or causes to be washed, therein any animal, or anything whatever, or throws, puts or casts, or causes to enter, therein any animal, or anything, or causes or suffers to run, drain or be brought thereinto, anything that is, or may be, a nuisance, or does anything whatsover whereby any such water shall be in any degree fouled or corrupted, or

whoever, without permission of the municipality, steeps in any tank, stream or ditch within the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance,

shall be liable, on conviction before a Magistrate, to the penalty hereinafter provided.

Abatement of nuisances.

62. When any pool, ditch, tank, pond, well, hole or any waste or stagnant water, whether the same be within any private enclosure or otherwise, shall appear to the municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the municipality may by written notice require the owner of the same to cleanse or fill up, or drain off, or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

Using offensive manure.

63. Whoever, except with the written permission of the municipality and in the way (if any) enjoined in such permission, stores or uses nightsoil, or other manure or substance, emitting an offensive smell, shall be liable to the penalty hereinafter provided.

Tethering cattle, etc.

64. Whoever shall tether cattle or other animals, or cause or permit them to be tethered by any member of his family or household, in any public street so as to obstruct or endanger the public traffic therein, or who causes or permits such animals to stray about without a keeper, shall be liable to the penalty hereinafter provided.

Consumption of smoke.

65. It shall be lawful for the municipality to direct, by public notice, that every furnace employed or to be employed in any works or buildings used for the purposes of any trade or manufacture whatsover within the limits of the municipal district, whether a steam-engine be or be not used or employed therein, shall in all cases be constructed or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace;

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[a] Words repealed by Bom. Act III of 1886 are omitted.

and if any person shall after such direction use, or permit to be used, any such furnace which shall not be constructed or altered so as to consume or burn its own smoke, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, every person so offending, being the owner or occupier of the premises, or being an agent or other person employed by such owner or occupier for managing the same, shall, upon conviction before any Magistrate, be liable to a penalty not exceeding one hundred rupees, and upon each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway, or for the repair of roads.

Licensing markets and slaughter-houses.

66. *Clause 1.*—It shall be lawful for the municipality to direct that no place shall be used as a market for the sale of animals, meat, fish and vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the municipality, or such other markets or slaughter-houses as may have been licensed in writing by the municipality, who may, at their discretion, from time to time grant, withhold or withdraw such licences, either generally or in individual instances.

Clause 2.—Whoever, contrary to such direction or without such license as aforesaid, sells or exposes for sale any such animals or commodities, or uses any place as a slaughter-house, shall be liable to the penalty hereinafter provided.

Opening, closing and letting of market and slaughter-houses.

67. *Clause 1.*—The municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use, by any person, of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

Clause 2.—Any person who, without the permission or license of the municipality, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be liable to the penalty hereinafter provided.

Search for unwholesome articles.

68. The municipality, or any officer authorized by them for such purposes, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or retail, or for the storing, of articles intended for food or

drink, or as a slaughter-house, and may examine any such articles which may be therein; and, in case any such articles appear to be unfit for food or drink, may seize the same; and, if it appear to a Magistrate upon sufficient evidence that the same are unfit for food or drink, he shall order the same to be destroyed, or to be so disposed of as to prevent their being exposed for sale or used for food or drink, and the owner thereof, or the person in whose possession the same are found, shall be liable to the penalty provided by section 273 of the Indian Penal Code [a].

XLV of 1860.

69. If it be shown, to the satisfaction of the municipality, that any building or place used

Regulation of certain trades.

for melting tallow or sulphur; or

for boiling or storing offal, blood, bones or rags; or

for washing or drying wool or hair; or

[b] for salting and curing fish, soap-making, oil-boiling, dyeing, tanning, or the manufacture of leather or leather goods; or

as a [b] brick, pottery or lime-kiln, manufactory of sago, distillery or other manufactory or place of storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise; or

as a manufactory of gunpowder or fireworks, place of storing explosive substances, or hay, straw, fodder, wood, coal or other combustible material,

is a nuisance to the neighbourhood, or so used or situated as to be likely to be dangerous to life, health or property,

the municipality may by written notice require the owner or occupier to discontinue the use of such place, or to use it in such manner as they may deem will render it no longer a nuisance, or injurious or dangerous, and any person who contravenes the direction of such notice shall be liable to the penalties hereinafter provided.

70. [*Bye-laws for markets, slaughter-houses and certain trades.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

71. It shall be lawful for the municipality, with the sanction of the Governor in Council or any officer authorized by him, to establish slaughter-houses or places for the disposal of carcases of animals beyond the limits of the municipal district, and all provisions of this Act and bye-laws relating to the management of such places within municipal limits shall have full force therein, as if such places were within the municipal limits.

Slaughter-houses, etc., beyond municipal limits.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b-b] These words were substituted for the original words by Bom. Act II of 1884, s. 49 (*h*).

72. [*Bye-laws for registration of births, etc., and taking of census.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

Special sanitary exigencies.

73. In the event of the municipal district, or any part thereof, being at any time threatened or visited with an outbreak of any epidemic disease, the municipality is hereby empowered and directed, with the sanction of the Governor in Council or any officer duly authorized by him, to take such measures as may be deemed necessary to prevent, meet, mitigate or suppress any such outbreak.

Penalties.

74. *Clause 1.*—Any person who contravenes the provisions of the sections [a] hereinafter enumerated shall for each offence be liable to penalties not exceeding those herein prescribed with reference to such sections respectively; that is to say:—

Sections 33, 38, 39, 42, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 58, 63, 64, 66, 67	Fine not exceeding Rs. 25
61	„ „ „ 50
29, 69	„ „ „ 100

Clause 2.—Any person who, after conviction or notice, as the case may be, continues the offences referred to in the sections [a] hereinafter enumerated, shall, in addition to any penalty which may have been imposed, be liable for each day of such continuance to the penalties herein prescribed with reference to such sections respectively; that is to say:—

Sections 38, 39, 42, 55, 56, 58, 64 .	Fine not exceeding Rs.
„ 49, 51, 52	„ „ „ 10
„ 69	„ „ „ 30

Execution of notices.

75. All written notices which may be issued by the municipality under sections 33 to 39, 41 to 43, 46, 58, 62 and 69 [a] shall prescribe a time, which shall, at the discretion of the municipality, be not less than three days or more than one month, within which the action prescribed in the notice should be taken by the person upon whom the notice is served.

In the event of non-compliance with the terms of the notice it shall be lawful for the municipality to take such action, or such steps, as may be necessary for the completion thereof, and all the expenses incurred by them shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner hereinafter provided.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

VI.—Procedure, Prosecutions, Suits, etc.

Service of Notices.

76. Every notice under this Act may be served personally upon the person to whom the same is addressed, or by leaving the same with some adult male member or servant of his family; or, if it cannot be so served, it may be put up on some conspicuous part of such person's place of abode. If the notice relates to any building or land, and the place of abode of the owner is unknown, the notice shall be deemed to be duly served if put up on some conspicuous part of the building or land to which the same relates.

No notice shall be invalid for defect of form.

Municipality, in default of owner or occupier, may execute works and recover expenses.

77. *Clause 1.*—Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any house or land, and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall be paid to them by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided either in one sum or by instalments as to the municipality may seem fit.

Power to levy charges on occupier, who may deduct same from rent.

Clause 2.—If the defaulter be the owner of the house or land, the municipality may by way of additional remedy, whether an action or proceeding has been brought or taken against such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the house or land under such owner; and, in default of payment thereof by such occupier on demand, the same may be levied by distress of the goods and chattels of such occupier;

every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than amount of rent due.

Clause 3.—No occupier of any house or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any

such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Proviso.

Provided further that nothing herein contained shall be taken to affect any special contract made between any such person, owner or occupier, respecting the payment of the expense of any such works as aforesaid.

Occupier in default of owner may execute works and deduct expenses from rent.

78. Whenever default is made by the owner of any house or land, in the execution of any work required to be executed by him, the occupier of such house or land may, with the approval of the municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes execution of Act.

79. If the occupier of any house or land prevent the owner thereof from carrying into effect, in respect of such house or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, any Magistrate, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such house or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if it think fit, order the occupier to pay to the owner the costs relating to such application or order;

and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Entry for purposes of Act.

80. It shall be lawful for the municipality, or any officer authorized by them for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make, as for the purpose of executing any work authorized by this Act to be executed by them:

Provided that, except when herein otherwise provided, the municipality or their said officer shall not enter upon any building or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' written notice of their or his intention to do so:

Provided also that, in the case of buildings used as human dwellings, due regard shall be paid to the social and religious prejudices of the occupiers.

Arbitration in cases of compensation, etc.

81. If a dispute arises with respect to any compensation, damages, costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchâyat of five persons, of whom two shall be appointed by the municipality, two by the party to receive compensation, and one, who shall be sar-panch, shall be selected by the members already appointed as above.

If either party or both parties fail to nominate representatives, or if the members fail to appoint a sar-panch within one month from the date of either party receiving written notice from the other of claim to such compensation, damages, costs or expenses, such members as may be necessary to constitute a panchâyat shall be appointed, at the instance of either party, by the District Judge.

In the event of the panchâyat not giving a decision within one month from the date of the appointment of the sar-panch, the matter shall, on application by either party, be determined by a Court under the provisions of the Land Acquisition Act, 1894. [a]

I of 1894.

Municipality may prosecute.

82. The municipality may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund, and no prosecution for an offence under this Act shall be instituted except within three months next after the commission of such offence.

Damage to municipal property how made good.

83. *Clause 1.*—If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Clause 2.—It shall be lawful for the municipality in lieu of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any compensation, expenses, charges or damages awarded under this Act, to sue, in any Court of competent jurisdiction, the person liable to pay

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

the same, as also any person who may have in any other way caused, or may appear likely to cause, any loss or innovation of any of the property, rights or privileges of the municipality.

Clause 3.—The municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers and servants, under this Act.

Jurisdiction of Magistrate.

84. Every prosecution under this Act or under the bye-laws made in accordance with the provisions of this Act may be instituted before any Magistrate, whether the said Magistrate be a Municipal Commissioner or not,

and every fine or penalty imposed under or by virtue of this Act or any bye-law made in pursuance thereof, as also upon information laid by order of the municipality, all arrears of [a] cesses or other taxes, and such penalties in addition to the said arrears, not exceeding in any case one-fourth of the amount of the arrear, as shall be adjudged by the said Magistrate, and all arrears of [a] stallage and other rents and fees, and all expenses, may be recovered by a summary proceeding before such Magistrate in the manner provided in the Code of Criminal Procedure, 1882 [b]. X of 1882.

Distress lawful though defective in form.

85. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction or warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

86. [*Actions against municipality.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

Powers of Police-officers.

87. *Clause 1.*—Any Police-officer may arrest any person committing in his view any offences against any of the provisions of this Act if the name and address of such person be unknown to him, or if such person decline to give his name and address, or if the Police-officer in question shall have reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested under the provisions of this Act shall

[a-a] These words were substituted for the original word by Bom. Act II of 1884, s. 49 (*i*).
[b] The reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

be detained in any way without the order of some Magistrate, longer than shall be necessary for bringing him before a Magistrate, or than forty hours at the utmost.

Clause 2.—It shall also be the duty of all Police-officers to give immediate information to the municipality of any offence committed contrary to the provisions of this Act, and to assist all [a] municipal officers and servants in the exercise of their lawful authority.

VII.—Municipal Accounts and Government Control.

Quarterly and annual accounts.

88. [b] *Clause 1.*—Every municipality shall have prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the municipal fund during the period since the first day of April last preceding, and at the general meeting in April a complete account of such receipts and expenditure for the financial year ending the 31st March last preceding, together with a budget estimate of the income and expenditure of the municipality for the financial year then just commenced.

Budget estimates.

Clause 2.—The municipality shall thereupon, or after audit of the past year's accounts if it has not previously taken place, pass the accounts of the past year, and decide upon the appropriations, and the ways and means, contained in the budget of the year then just commenced.

The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

Audit of accounts.

89. The municipal accounts shall from time to time, and once in every year at the least, be audited by such agency as may be prescribed in the rules [c] of the municipality[c].

The auditor or auditors shall, for the purposes of their office, have access to all the accounts and other records of the municipality.

Transmission of accounts to Government.

90. The Municipality shall, as soon as the annual accounts have been finally passed by them, transmit to the Governor in Council, or any officer duly authorized by him, a copy thereof, or an account in such form as the Governor in Council may prescribe, and shall furnish such details and vouchers relating to the same as he may from time to time direct.

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[a] Words which were repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force, are omitted.

[b] This clause was substituted for the original cl. *1* by Bom. Act II of 1884, s. 49 (*j*).

[c-c] These words were substituted for the original words and figures by Bom. Act II of 1884, s. 49 (*k*).

91. [*Powers of Government in cases of municipal default.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

VIII.—PUBLICITY OF MUNICIPAL PROCEEDINGS [a].

92, 93. [*Meetings to be public; Minutes of proceedings.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

Publication of accounts.

94. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall [b] be open to public [c] inspection, and shall be published in the vernacular language in any newspaper which may exist in or near the place, or in any other manner which the municipality may prefer.

95 to 99. [*Rules to be printed and sold; Complaints and appeals; Right to sue Municipality; Inspection by Police Commissioners; Delegation of powers.*] *Repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force.*

THE BOMBAY TRAMWAYS ACT, 1874.

CONTENTS.

PREAMBLE.
SECTIONS.
1. Short title.
2. Interpretation-clause.
3. Routes on which tramways to be maintained.
4. Notice in Government Gazette of new tramway.
5. Form in which tramways to be maintained.
6. Construction of carriages.
7. Grantees may use tramway carriages with flange-wheels.
8. Reservation of right of public to use roads.
9. Carriages to be worked with animal-power.
10. Power to break up streets, etc.
11. Completion works and reinstatement of road.
12. Repair of part of road where tramway laid.
13. Penalty for failure by grantees to comply with provisions of Act.

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[a] The word repealed by Act XVI of 1895 is omitted.
[b] The word which was repealed by Bom. Act II of 1884, s. 3, except in temporary municipal districts in existence when that Act came into force, is omitted.
[c] The word "public" was inserted by Bom. Act II of 1884, s. 49 (*l*).

SECTIONS.

14. Work may be executed by Municipal Commissioner at cost of grantees if they delay or omit to perform it.
15. Reservation of power over roads.
16. Grantees may demand fees or charges.
17. Printed list of fares, etc., to be placed in carriages.
18. Fares to whom to be paid.
19. Penalty for obstructing grantees in exercise of power.
20. Penalty for interfering with tramways.
21. Penalty for avoiding payment of proper fare.
22. Servant of grantees may arrest persons avoiding payment.
23. Carriage of dangerous or offensive goods.
24. Bye-laws by Municipal Commissioner.
Grantees may make certain regulations.
25. Penalty for breach of bye-laws.
26. Penalties how recovered.
27. Responsibility of grantees for damages.
28. Power for Municipal Commissioner and police to regulate traffic on roads.
29. Municipal Commissioner may remove tramway if working discontinued for six months.
30. Municipal Corporation have right of purchasing tramways after twenty-one years.
31. Grantees may sell rights and powers to others.
SCHEDULE.

BOMBAY ACT No. I OF 1874.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th May, 1874.*)

An Act to authorize the making and to regulate the working of Street-tramways in Bombay.

WHEREAS the Corporation of the Justices of the Peace for the city of Bombay, by an agreement dated the twelfth day of March, 1873, for the considerations therein expressed, granted to William French Stearns and George Alvah Kittredge and their assigns the right to construct and maintain and to use a tramway or tramways in Bombay upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule, [a] and the said agreement had on the third day of March, 1873, received the sanction of the Governor of Bombay in Council; Preamble.

and whereas the said W. F. Stearns and G. A. Kittredge are desirous of being empowered to lay down and maintain the several street-tramways in the

[a] Words repealed by Bom. Act III of 1886 are omitted.

said agreement and in this Act particularly described, and also such other tramways between such other places in Bombay, and by such other routes, as may hereafter be approved;

and whereas the objects of this Act cannot be attained without the authority of the Legislature;

It is hereby enacted as follows:—

Short title.

1. This Act may be cited for all purposes as the Bombay Tramways Act, 1874.

Interpretation-clause.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

the expression "the said Corporation" shall mean the Municipal Corporation of the city of Bombay constituted by the City of Bombay Municipal Act, 1888 [a] or any other Act passed by the Governor of Bombay in Council: Bom. III of 1888.

the expression "the Municipal Commissioner" shall mean the Municipal Commissioner for the city of Bombay appointed under the provisions of the said City of Bombay Municipal Act, 1888 [a] or any subsequent Municipal Act, or any person officiating in the said office:

the expression the "tramways" or the "undertaking" shall mean the tramways and works and undertaking by this Act authorized, or any part thereof:

the word "road" shall mean the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is intended to be laid, and includes the surface-pavement, soil and sub-soil of a street and any bridge forming part of a street.

Routes on which tramways to be maintained.

3. Subject to the provisions of this Act, and subject to the said agreement of the twelfth of March, 1873, so far as the same is not inconsistent with anything in this Act, the said W. F. Stearns and G. A. Kittredge, their executors, administrators and assigns (hereinafter called the said grantees), may make and maintain in the city of Bombay a tramway or tramways with single or double tracks and with all necessary sidings, turn-outs, connections and tracks to and from their stables on the following routes:—

from a point near the Grant Buildings, Kolába, by Hornby Row and the Cruickshank Road to the Money School, a double track: Provided that this tramway shall not be carried or maintained across the Bombay, Baroda and Central India Railway or any siding which may at any time be constructed

[a] The references to Bom. Act III of 1872 are altered in accordance with Bom. Act III of 1888, s. 2 (printed in Vol. III of this Code).

from the Cotton Green to the Apollo Bay Reclamation so as to obstruct the said railway or any such siding,

from a point of junction with the above tramway near the junction of Bázár Gate Street and Hornby Row to a point near the Crawford Market, a double track,

from the Money School to a point near Paidhoní Well along the Kalbadáví Road and the Coppersmiths' Bázár, Mombadáví, a single track, [a] or such double track as may, at any time with the previous consent of the said Corporation, be approved by the Municipal Commissioner and be sanctioned by Government [a],

from the Crawford Market along Sayad Abdul Rahmán Street to a point of junction with the foregoing tramway near the Paidhoní Well, a single track, [a] or such double track as may, at any time with the previous consent of the said Corporation, be approved by the Municipal Commissioner and be sanctioned by Government [a] [b];

and may also make and maintain a tramway along the following route when approved by the Municipal Commissioner:

from the said point near Paidhoní Well along the Parel Road to a point near the Baikala Railway-station, a single or double track as may be approved of by the Municipal Commissioner for the said city and sanctioned by Government;

and may also make and maintain tramways between such other places in the said city and by such other routes as may hereafter be approved of by the Municipal Commissioner for the said city and sanctioned by Government.

Notice in Government Gazette of new tramway.

4. In the event of any other tramway or tramways on other routes in the said city being from time to time approved by the said Commissioner and sanctioned by Government and undertaken by the said grantees, notice thereof specifying the routes so approved shall thereupon be given in the Bombay Government Gazette, under the signature of a Secretary to Government, and upon the publication of any such notice all the provisions of this Act shall apply to the tramway or tramways in such notice specified, and all works and things connected with or incidental thereto as if the same route or routes had been particularly described in section 3 [c].

Form in which tramways to be maintained.

5. Every tramway shall be constructed and maintained in such form and manner and upon such gradient and with such gauge and rails as the said Municipal Commissioner shall approve, and shall be laid and maintained in

[a-a] These words were added by Bom. Act II of 1895.
[b] Portion repealed by Bom. Act II of 1895 is omitted.
[c] Words repealed by Bom. Act III of 1886 are omitted.

such manner that the uppermost surface of the rail shall be on a level with the immediately adjacent surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic by the Municipal Commissioner.

Construction of carriages.

6. The carriages intended to run upon the said rails shall be furnished with a break which can be worked at each end of the carriage, and shall be of a construction approved by the Municipal Commissioner.

No carriage used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side.

Grantees may use tramway-carriages with flange-wheels.

7. The grantees may use on their tramways carriages with flange-wheels, or wheels suitable only to run on a grooved rail, and, subject to the provisions of this Act, the grantees shall have the exclusive use of their tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Reservation of right of public to use roads.

8. Nothing in this Act or in any bye-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable only to run on a grooved rail.

Carriages to be worked with animal-power.

9. The carriages of the grantees on the tracks of the said tramways shall, unless with the consent of the said Municipal Commissioner and the sanction of Government, be worked with horse-power or other animal-power only, and the maximum rate of speed on the said tramway shall be eight miles per hour.

Power to break up streets, etc.

10. The grantees from time to time, for the purpose of making, forming, laying down, maintaining and renewing any tramway duly authorized, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations :—

(*1*) They shall give to the Municipal Commissioner, or to the executive engineer of the said Corporation, notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen :

(*2*) They shall not open or break up, or alter, the level of any road except under the superintendence and to the reasonable satisfaction of the Municipal Commissioner or executive engineer, unless the said Municipal

Commissioner or executive engineer refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work :

(*3*) They shall not, without the consent of the Municipal Commissioner, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length ; and in the case of any road exceeding a quarter of a mile in length the grantees shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Completion works and reinstatement of road.

11. When the grantees have opened or broken up any portion of any road, they shall be under the following further obligations, namely :—

(*1*) They shall, with all convenient speed, and in all cases within four weeks at the most (unless the Municipal Commissioner otherwise consents in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance or renewal of the tramway) fill in the ground, and make good the surface, and to the satisfaction of the Municipal Commissioner restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby :

(*2*) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.

Repair of part of road where tramway laid.

12. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Municipal Commissioner shall direct, and to his satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the grantees in any road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

And, in consideration of such maintenance of parts of roads and of the yearly rent in the said agreement mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

Penalty for failure by grantees to comply with provisions of Act.

13. If the grantees aforesaid fail to comply in any respect with the provisions of sections 5, 6, 9, 10, 11 and 12[a], they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them), upon complaint of

[a] Words repealed by Bom. Act III of 1886 are omitted.

the Municipal Commissioner, be liable to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Work may be executed by Municipal Commissioner at cost of grantees if they delay or omit to perform it.

14. If any unnecessary delay or omission shall take place on the part of the said grantees in complying with any order which may be made on them by Government for the removal of the said track authorized to be constructed along Sayad Abdul Rahmán Street as hereinbefore mentioned, or of any other track the construction of which may have been sanctioned, subject to similar provisions, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in sections 10 and 11,[a] or in filling in the ground or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road has been broken up to be guarded and lighted, or neglect to maintain or keep in repair the portion of the roads which shall be occupied by their tracks, the Municipal Commissioner may cause the work so delayed or omitted to be executed at the expense of the said grantees, and the certificate in writing of the said Municipal Commissioner as to the expense so incurred shall be conclusive, and the said grantees shall not be at liberty to dispute the same in any Court of law.

Reservation of power over roads.

15. Nothing in this Act shall be construed to prevent the said Municipal Commissioner or the Corporation, or the Bombay Gas Company, Limited, in the exercise of the powers conferred upon them under Act V of 1863[b] of the Governor of Bombay in Council, from taking up any of the roads traversed by the said tramway for the purposes for which he or they may now lawfully take up the same: Provided always that—

(1) they shall cause as little detriment or inconvenience to the grantees as circumstances admit:

(2) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work:

(3) they shall not be liable to pay to the grantees any compensation for injury done to the tramway by the execution of such work, or for

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Printed *supra*, p. 42.

loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid.

Grantees may demand fees or charges.

16. The grantees may demand and take for every passenger travelling upon any of the tramways, or any part or parts thereof respectively, or for the carriage of goods by such tramways, such fares or charges as they may fix from time to time:

Provided that the rates of fares, on at least one-half of the carriages available for passengers which shall daily run on the said tracks, shall for any distance not exceeding three miles not exceed three annas, and for any greater distance shall be at the rate of three annas for every three miles or any portion thereof.

Printed list of fares, etc., to be placed in carriages.

17. A printed list in English, Maráthi and Gujaráthi of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the carriages used by the grantees upon any of their tramways.

Fares to whom to be paid.

18. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations, as the grantees shall, by notice to be annexed to the list of fares, appoint.

Penalty for obstructing grantees in exercise of power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramways.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

interferes with, removes or alters any part of a tramway of the grantees or of the works connected therewith:

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways: or

knowingly aids or assists in the doing of such thing:

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or

if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or

if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage,

every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Servant of grantees may arrest persons avoiding payment.

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the next preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding rupees fifty for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

Bye-laws by Municipal Commissioner.

24. The Municipal Commissioner may, from time to time, make regulations as to the following matters:—

the rate of speed to be observed in travelling upon the tramway:

the distances at which carriages using the tramway shall be allowed to follow one after the other:

the stopping of carriages using the tramway:

the hours during which such carriages carrying goods shall run on the tramway:

the traffic on the road in which the tramway is laid.

Grantees may make certain regulations.

The grantees may from time to time make regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them:

for regulating the travelling in or upon any carriage belonging to them.

And, for better enforcing the observance of all or any of such regulations, it shall be lawful for such Municipal Commissioner and grantees respectively, subject to confirmation thereof by the Governor of Bombay in Council to be signified under the hand of a Secretary to the said Governor in Council, to make bye-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such bye-laws, and make new bye-laws, provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the City of Bombay.

Notice of the making of any bye-law under the provisions of this Act shall be published by the Municipal Commissioner in the Bombay Government Gazette.

Penalty for breach of bye-laws.

25. Any person offending against any bye-law made under the provisions of the next preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees, to be imposed in such bye-laws as a penalty for such offence.

Penalties how recovered.

26. All fares, penalties, forfeitures and charges under this Act or under any bye-law made in pursuance of this Act may be recovered and enforced before a Police Magistrate of Bombay by a summary proceeding; and in default of payment of such fare, penalty, forfeiture or charge, the same may be levied under the warrant of such Magistrate by distress and sale of the goods of such offender, with all such powers for the issuing of such warrant and upon the return thereof as are exercised by a Magistrate of Police under Act XIII of 1856 [a] or any other Act for regulating the Police of the Town of Bombay in force for the time being.

Responsibility of grantees for damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless the Municipal Corporation of the City of Bombay and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for Municipal Commissioner and Police to regulate traffic on roads.

28. Nothing in this Act shall limit the powers of the Municipal Commissioner or the Police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such Municipal Commissioner or Police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

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[a] Printed in Vol. I of this Code, p. 74.

Municipal Commissioner may remove tramway if working discontinued for six months.

29. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway or any part thereof for the space of six [a] months (such discontinuance not being occasioned by circumstances beyond the control of the grantees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), it shall be lawful for the said Municipal Commissioner without any previous notice to the grantees to remove the tramway or any part of the tramway so discontinued, and the grantees shall pay to the said Corporation the cost of such removal and the making good of the streets, roads or bridges consequent on such removal, and the certificate of the said Municipal Commissioner as to such cost shall be conclusive evidence as between the said Corporation and the said grantees.

Municipal Corporation have right of purchasing tramways after twenty-one years.

30. The said Municipal Corporation of the City of Bombay shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock and everything connected therewith after the expiration of twenty-one years from the twelfth day of March, 1873, upon declaring its intention so to do within six months after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given;

the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value (exclusive of any compensation for goodwill, premium or compulsory sale or other consideration whatsoever) of the tramways, and of the works and materials connected therewith and of the lands and buildings and all other the property of the grantees, such value in case the parties do not agree to be decided by arbitration as provided by the said agreement of the twelfth day of March, 1873; and as compensation for the goodwill, premium or compulsory sale and other consideration, the grantees shall be paid an amount equal to twenty-one years' purchase, calculated on the average profits of the previous three years next preceding the purchase, four per cent. per annum on the *bonâ fide* value mentioned above being first deducted from such profits.

Grantees may sell rights and powers to others.

31. At any time the grantees may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of the said agreement or such of them as shall be then subsisting), and, when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantees under the said agreement and this Act shall be transferred to, vested in and may be exercised by, and shall attach to, the person,

[a] The word repealed by Bom. Act III of 1886 is omitted.

persons, Corporation or Company to whom the same has been sold, in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantees then already constructed and thereafter to be constructed instead of the grantees.

SCHEDULE.

ARTICLES OF AGREEMENT made this Twelfth day of March, One Thousand Eight Hundred and Seventy-three, between the JUSTICES OF THE PEACE FOR THE CITY OF BOMBAY, incorporated under Act II of 1865 [a] of the Legislative Council of Bombay, hereinafter called the said Justices, of the one part; and WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, hereinafter called the grantees, of the other part.

Whereas the said Justices have agreed to grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE the right to construct, maintain and use a tramway in Bombay upon the terms and conditions hereinafter contained: NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said Justices to be performed, the said grantees, for themselves, their heirs, executors and administrators, do, and each of them for himself, his heirs, executors and administrators doth, covenant with the said Justices and their successors, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said grantees and their assigns; and the said Justices, for and in consideration of the covenants and agreements hereinafter contained, and on the part of the said grantees and their assigns to be performed, do hereby covenant with the said grantees and their assigns, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said Justices and their successors, in manner following; THAT IS TO SAY:—

1. The said Justices grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, and their assigns, the right to construct, maintain and use a tramway or tramways, with single or double tracks, and with all necessary sidings, turn-outs, connections and tracks, to and from the stables of the grantees or their assigns, on the following routes, and between such other places, and by such other routes, as may be hereafter approved of by the Municipal Commissioner for the City of Bombay.

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[a] Bom. Act II of 1865 was repealed by Bom. Act III of 1872, which was itself repealed by Bom. Act III of 1888, printed in Vol. III of this Code.

The tramways referred to, and now authorized for immediate construction, are—

From a point near the Grant Buildings, Kolába, to the Money School, A DOUBLE TRACK.

PROVIDED that this tramway will not be carried across the Bombay, Baroda and Central India Railway, or any sidings which it may now be contemplated to construct from the Cotton Green to the Apollo Bay Reclamation, without the express permission of Government.

From a point of junction with the above tramway near the junction of Church-gate Street and Rampart Row to a point near the Crawford Market, A DOUBLE TRACK.

From the Money School to a point near Paidhoní Well, along the Kalbadávi Road and the Coppersmiths' Bázár, Mombadavie, A SINGLE TRACK.

From the Crawford Market along Sayad Abdul Rahmán Street to a point of junction with the foregoing tramway near the Paidhoní Well, A SINGLE TRACK : Provided, however, that, in case after the expiration of one year from the date when this track shall have been constructed, it shall be considered by Government to be necessary or expedient that the same shall be removed, the grantees shall, immediately after they shall have received an order from Government in that behalf, at their own expense remove the said track, and all their plant and materials, from the said street, and restore and make good the road and pavement, and remove all rubbish occasioned by the said track or the removal thereof, and the said grantees shall not be entitled to or claim any compensation in respect of such removal.

And also the following when approved by the Municipal Commissioner :—

From the said point near Paidhoní Well along the Parel Road to a point near the Byculla Railway station.

2. The said tramway shall be constructed and maintained in such form and manner, and upon such gradient and with such gauge, as the Municipal Commissioner may approve ; and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Commissioner.

3. The cars and carriages of the grantees or their assigns on the tracks of the said tramway shall, unless with the consent of the said Commissioner, be worked with horse-power, or other animal-power, only ; and the said Commissioner shall have power at all times to make such regulations as to the rate of speed and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

4. The said grantees or their assigns shall have power, from time to time,

to fix the rates of fares for carrying persons and goods in the cars or carriages to be run on the said tramways, provided that the rates of fares, on at least one-half of the cars or carriages available for passengers which daily run on the said tracks, shall for any distance not over three miles not exceed three annas, and be for any greater distance in the same proportion.

5. The said grantees or their assigns may, for the purpose of constructing and maintaining such tramways, under such superintendence as is hereinafter specified, open and break up the soil and pavement of the several streets and bridges in the town and island of Bombay, and thereon lay sleepers and rails, and from time to time repair, alter or remove the same; and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges; and the said grantees and their assigns may, in and on such streets and bridges, do all other acts which they shall from time to time deem necessary for constructing and maintaining street-tramways in the said town and island of Bombay, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

6. Before the said grantees or their assigns proceed to open or break up any street or bridge other than those referred to in clause 1, they shall obtain the approval in writing of the said Commissioner to the tracks of the said tramway being laid down on the said street or bridge; and shall give to the said Commissioner, or the executive engineer or other municipal officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

7. No such street or bridge shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the said Commissioner or of his officer, and according to such plans as shall be approved of by him or them: Provided always that, if the said Commissioner or his officer fail to attend at the time fixed for the opening of any such street or bridge after having had such notice of the said grantees' or their assigns' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantees or their assigns may perform the work specified in such notice without the superintendence of such officer.

8. When the said grantees or their assigns open or break up the road or pavement of any street or bridge, they shall, with all convenient speed,

complete the work for which the same shall be broken up, and fill in the ground and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby, and deposit the same for the use of the Commissioner at such place as the executive engineer of the said municipality shall direct; and shall, at all times whilst any such road or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up.

9. If the said grantees or their assigns open or break up any street or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantees or their assigns are hereby authorized to perform such work without any superintendence or notice; or if the said grantees or their assigns shall make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good, so far as is consistent with the existence of the said tramway, the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be guarded and lighted—they shall forfeit to the said Justices a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay or neglect as aforesaid shall continue after they shall have received notice thereof.

10. The said grantees or their assigns shall maintain and keep in repair such portion of the streets and bridges in the town and island of Bombay as shall be occupied by their tracks, including therein not only the space between the tracks, but eighteen inches on either side thereof, and in consideration of such maintenance of streets and bridges, and of the yearly rent hereinafter mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

11. If any unnecessary delay or omission shall take place by the said grantees or their assigns in complying with any order which may be made on them by Government for the removal of the said track proposed to be constructed along Sayad Abdul Rahmán Street as hereinbefore mentioned, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in clause 8 of these presents, or in filling in the ground, or reinstating and making good the road or pavement so opened or broken up, or in carrying away

the rubbish occasioned thereby; or if they neglect to cause the place, where such road or pavement has been broken up, to be guarded and lighted, or neglect to maintain and keep in repair the portion of the roads or bridges which shall be occupied by their tracks—the said Commissioner may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to him by the said grantees or their assigns, and the certificate in writing of the Commissioner as to the expense so incurred shall be conclusive, and the said grantees shall not be at liberty to dispute the same.

12. The said grantees or their assigns shall be liable for any loss or injuries that any person may sustain by reason of any defect or want of repair in any of the plant or other property of the said grantees, or of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tracks or tramways; and, in case any recovery shall be had against the said Commissioner or the said Justices by reason of such defect or other matter aforesaid, the said grantees or their assigns shall be liable to pay to the said Commissioner or the said Justices, as the case may be, any sums thus recovered against him or them, together with all costs and reasonable expenditure incurred by the said Commissioner or the said Justices in the defence of any such suit or suits in which such recovery shall be had.

13. Nothing in this agreement shall be construed to prevent the said Commissioner from taking up any of the public streets or roads traversed by the said tramway for the purposes for which he may now lawfully take up the same.

14. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway, or any part thereof, for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Commissioner, without any previous notice to the grantees, to remove the tramway, or part of the tramway, so discontinued, and the grantees shall pay to the Commissioner the cost of such removal and of the making good of the street; and the certificate of the Commissioner as to such cost shall be conclusive.

15. The provisions of this agreement shall remain and be in force for a term not less than twenty-one years from the date thereof. The Corporation shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, and everything connected therewith, after the expiration of the said twenty-one years, upon declaring its intention so to do within six months

after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given; the amount to be paid in the event of such purchase shall be actual *bonâ fide* value, exclusive of any compensation for good-will, premium, compulsory sale or other consideration whatsoever, of the tramways, and of the work and materials connected therewith, and of the lands and buildings and all other the property of the grantees, such value, in case the parties do not agree, to be decided by arbitration as hereinafter provided; and for the good-will, premium, compulsory sale, and other consideration of the business of the grantees, an amount equal to twenty-one year's purchase, calculated on the average profits of the previous three years, four per cent. per annum on the above value as paid being first deducted from such profits.

16. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees or their assigns by any route or routes to be hereafter fixed by the Commissioner or under clause 1 of these presents, and to the works connected with, or incidental to, such tramways, it being agreed that, in the event of the municipality failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

17. The said grantees or their assigns will, if required by the said Commissioner, before opening and breaking up the soil and pavement of any street or bridge under clause 5 of these presents, deposit with the Bank of Bombay, in the name of the said Commissioner, the sum of rupees 5,000 or, in their option, promissory notes of the Government of India of the nominal value of rupees 5,000, and the same will remain so deposited until the completion by the said grantees or their assigns of the abovementioned lines of tramway herein sanctioned for immediate construction. All interest accruing on the said sum or the said notes shall be credited to the said grantees or their assigns, and, subject as next hereinafter mentioned, be paid to them as the same accrues due. The said Commissioner shall be entitled to deduct all fines recovered by him out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the said tramways as specified in clause 1 of this agreement.

18. In consideration of the concession herein granted, the said grantees undertake, on behalf of themselves and their assigns, that they will pay to the Municipal Corporation of Bombay a yearly rent of Rs. 3,000 per mile of double track and Rs. 2,000 per mile of single track, payable half-yearly; the

date on which such rent on each line of tramways shall begin to accrue shall be the date on which such line of tramways is opened for public traffic.

19. It is agreed that no sidings, turn-outs or tracks necessary to connect the traffic-lines with the stables, carriage-sheds, factories or other property or properties of the grantees shall be included in the mileage on which rent is to be paid; such sidings, turn-outs and necessary connecting tracks being free of rent.

20. The sleepers, rails, materials, implements and other erections placed and erected by the said grantees on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, and the said grantees shall have the exclusive use of their tramway or tramways for carriages with flanged wheels, or other wheels suitable only to run on the prescribed rail.

21. The grantees shall have the exclusive right of laying and using tramways within the limits of the Bombay Municipality on the terms herein stated; but, in the event of the grantees refusing to lay down any line which the Municipal Commissioner may consider necessary, he shall be at liberty to grant the right of laying and using such line to any other party.

22. Unless the said grantees shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these presents, the Municipal Commissioner shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these presents are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantees: Provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the grantees.

23. If any doubt, difference or dispute shall arise between the grantees, their heirs, executors or administrators, and the said Justices or their successors, touching the construction of these presents or anything herein contained or touching or concerning any other matter or thing relating to these presents, then, and in every such case, such doubt, difference or dispute shall be referred to the arbitration of three indifferent persons, one to be from time to time chosen by the said grantees, and another by the said Justices, within one calendar month after either of them shall have made to the other a requisition to that effect, and the third to be named by the two persons from time to time first chosen; and the decision of such arbitrators if they agree, or of such

umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time the arbitrator appointed by the other party shall make a final decision alone.

IN WITNESS whereof the said Municipal Commissioner, for and on behalf of the said Justices, has hereunto set his name and caused the seal of the said Justices to be affixed hereunto, and the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE have hereunto set their hands and seal the day and year hereinbefore written.

SPECIFICATION.

RAIL.—To be similar in upper surface section to the sample submitted herewith, being similar to the rail now in general use in London and Liverpool.

GAUGE.—To be 4 feet 8½ inches.

CARRIAGE.—Similar to those in use in England and America, to be furnished with a break which can be worked at both ends of the carriage, capable of stopping the carriage within its own length.

As it has been suggested that some doubt may arise as to the meaning of the latter part of section 15 of the Articles of Agreement between the JUSTICES OF THE PEACE FOR THE TOWN AND ISLAND OF BOMBAY and Messrs. STEARNS and KITTREDGE, we, the undersigned, append the following illustration of the mode in which that section is to be construed:—

Suppose the *bonâ fide* value fixed by arbitration of the grantees' stock is	Rs.	10,00,000
4 per centum on this sum is . . .	„	40,000
And suppose that the average annual profits, for three years, of the grantees are .	Rs.	1,00,000
Rs. 40,000 being deducted from Rs. 1,00,000 = Rs. 60,000—		
Rs. 60,000 × 21 years = Rs. 12,60,000.		
And the sum to be paid as purchase-money to the grantees will be—		
Stock value . . =	Rs.	10,00,000
Compensation for good will =	„	12,60,000
Rs. .		22,60,000

(*Signed*) W. G. PEDDER, C.S.,
Municipal Commissioner.

(*Signed*) GEO. A. KITTREDGE,
For self and W. F. STEARNS.

BOMBAY ACT No. II OF 1874.

CONTENTS.

PREAMBLE. [*Repealed.*]

PARTS I & II.

SECTIONS.

1 to 7. [*Repealed.*]

PART III.

CIVIL JAILS.

8. [*Repealed.*]
9. Civil jail to be at seat of each District Court, and may be at other places.
10. Nazir of District Court to be keeper of civil jail and to have establishment under him.
11. Judge to visit civil jail.
12. Medical officer to attend jail.
Remedies administered at expense of Government.
13. Strangers may be admitted to civil jail.
14. Subsistence of prisoners in civil jail.
15. Disposal of corpse of prisoner dying in civil jail.
16. Disposal of subsistence-money in hand on prisoner's death or release.
Cost of disposing of corpses and other expenses connected with civil jail to be provided by Government.

PARTS IV TO XIV.

17 to 52. [*Repealed.*]

BOMBAY ACT No. II OF 1874[a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th January, 1875.*)

An Act for the regulation of jails in the City and Presidency of Bombay and the enforcement of discipline therein.

Preamble. [*Repealed by Act IX of 1894.*]

[a] Civil jails in the Presidency of Bombay outside the City of Bombay are administered under sections 9 to 16 of Bom. Act II of 1874, as amended by subsequent enactments—see Act IX of 1894, s. 1 (*4*).

Bom. Act II of 1874 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Island of Perim—see Appendix to Vol. I of this Code, p. lix.

PARTS I AND II.

PRELIMINARY ; CLASSES OF JAILS.

1 to 7. [*Repealed by Act IX of 1894.*]

PART III.

CIVIL JAILS.

8. [*Limitation of application of Part III.*] *Repealed by Act IX of 1894.*

Civil jail to be at seat of each District Court, and may be at other places.

9. There shall be a civil jail at the seat of the District Court for each district created under section 3 of Act XIV of 1869 [a] : Provided that it shall be in the power of the Governor in Council to establish civil jails at other convenient places.

Názir of District Court to be keeper of civil jail and to have establishment under him.

10. The názir of the District Court or of the chief Civil Court at the place where the civil jail is located shall be *ex officio* keeper of the civil jail, and shall be responsible for the safe custody of the prisoners and for the preservation of cleanliness and good order in the jail and among the prisoners, and shall have such establishment under him as the District Judge, with the sanction of the Governor in Council, may direct.

Judge to visit civil jail.

11. The Judge or the Assistant Judge of the district in which a civil jail is situated shall visit such civil jail at least once in each month, and shall issue in writing such orders connected with the economy of the jail, the good management, health and accommodation of the prisoners, as he may think fit.

He shall record the date of his visit, and any remarks he may have to make, in a book to be kept for the purpose.

Medical officer to attend jail.

12. A medical officer to be appointed by the Governor in Council shall attend the civil jail, and shall be bound to offer such advice to the District Judge, or other officer in charge of the civil jail, as may seem expedient to him with regard to the sanitary state of the jail and of the prisoners.

Remedies administered at expense of Government.

He shall also administer remedies at the expense of the Government to the sick : Provided that nothing contained in this section shall prevent a prisoner in a civil jail from employing at his own expense any medical man he may think fit to consult.

Strangers may be admitted to civil jail.

13. The civil jail shall be opened daily for the admission of those wishing to visit prisoners from 9 A.M. till 3 P.M., and no stranger shall be allowed to

[a] Printed in Vol. I of this Code, p. 128.

remain in the civil jail beyond the above mentioned hours except by permission of the Judge, the Assistant Judge of the district, or on the recommendation of the medical officer by the permission of the názir in charge of the jail.

Subsistence of prisoners in civil jails.

14. *Clause 1.*—Prisoners in the civil jail may either make their own arrangements for their subsistence, or may, within the amount of subsistence-money or batta furnished by the party at whose suit they are detained, require the názir to furnish their food and other necessaries out of the subsistence-money fixed for them by the Court by which they are committed: provided that excess in the use of intoxicating liquors or drugs be strictly prohibited. A tariff of prices approved by the District Judge on the first day of each month shall be kept in each civil jail and shall be accessible to all the prisoners.

Clause 2.—Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the názir with such clothing and bedding as may be ordered by the Judge or Assistant Judge under the provisions of section 11 of this Act.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the názir on demand in writing the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

Disposal of corpse of prisoner dying in civil jail.

15. Whenever a prisoner shall die in the civil jail, the názir shall immediately report such death to the nearest Magistrate, who shall thereupon inquire into the cause of such death, and make a written report thereon to the Inspector-General of Prisons, and the corpse of such prisoner shall, after the medical officer appointed under section 12[a] has certified to his death, be made over to his relatives or friends [b] if any be present and willing to take charge of it [b].

[c] If no relative or friend of a prisoner who has died in prison is present and willing to receive and dispose of his corpse, it shall be buried, burnt or otherwise disposed of.

Disposal of subsistence-money in hand on prisoner's death or release.

[d] **16.** If, at the time of a prisoner's death or release, any of the subsistence-money furnished by the party at whose suit such prisoner was detained remains unexpended, notice shall be forthwith given to the party paying the

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b-b] These words were substituted for the original words by Bom. Act II of 1882, s. 1.
[c] This clause was added by Bom. Act II of 1882, s. 1.
[d] This section was substituted for the original s. 16 by Bom. II of 1882, s. 2.

same, and the balance so remaining unexpended shall be returned to such party or his representatives: Provided that he or they claim payment thereof within three months from the date of such notice; failing which such balance shall become the property of Government.

Cost of disposing of corpses and other expenses connected with civil jail to be provided by Government.

The cost of disposing of the corpses of deceased prisoners under clause 2 of the last preceding section, and of procuring comforts for sick prisoners, and generally for the maintenance of the civil jail, shall be provided by Government subject to such rules as Government may from time to time prescribe in this behalf.

PARTS IV TO XIV.

[CRIMINAL JAILS; SUPERINTENDENTS OF CRIMINAL JAILS, AND THEIR DUTIES; JAILORS AND THEIR DUTIES; MEDICAL OFFICER; PRISON OFFENCES; OFFENCES IN RELATION TO JAILS; VISITS TO, AND CORRESPONDENCE OF, PRISONERS; DISCHARGE OF PRISONERS; VISITORS OF JAILS; EXTRA-MURAL GANGS; MISCELLANEOUS.]

17 to 52. [*Repealed by Act IX of 1894.*]

THE BOMBAY HEREDITARY OFFICES ACT.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
2. [*Repealed.*]
3. Application of Parts VI, VII, VIII and IX.
4. Interpretation-clause.

PART II.

WÁTÁN-PROPERTY AND PROFITS THEREOF.

5. Prohibition of alienation of wátán and wátán rights.
6. Collector may institute legal proceedings for protection of wátán. Collector may proceed under sections 8 to 11, or 13.
7. Wátán assigned as remuneration not alienable without sanction.
8. Wátán property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

SECTIONS.

9. Collector may declare alienation of wátán property to be under certain circumstances null and void.
Collector may in case of land recover full rent.
10. Civil Court on Collector's certificate, to remove attachment on wátán property assigned as remuneration of officiator.
11. Collector may declare null and void alienation of wátán property made after passing of Act.
11A. Resumption of property to which an order made under section 10 or section 11 applies.
12. Powers of Collector to carry out provisions of sections 8, 9 and 11.
13. Wátán assigned as remuneration not liable to process of Court.
14. Combination of hereditary offices.

PART III.

COMMUTATION OF WÁTÁNS.

15. Commutation of service.
Settlement on whom to be binding.
Who is a "holder".
16. Rights of individuals to exact customary service from village-servants not affected.
17. Assessment of amount of payments in alienated villages.
18. Appointment of panchayat to define rights and duties of certain classes of wátándárs.
19. Mode of fixing amount payable when profits of wátán fluctuate.
20. Validity of settlements made prior to passing of Act.
21. Settlements for such period as Government may direct.

PART IV.

CREATION AND LAPSE OF WÁTÁNS.

22. Creation of new wátáns.

PART V.

REMUNERATION OF OFFICIATORS.

23. Collector to fix emoluments of officiators.
Collector may assign wátán property for purpose.

PART VI.

REPRESENTATIVE WÁTÁNDÁRS.

24. Duties to be performed by representative wátándárs.
25. Determination and registration of representative wátándárs.
26. Previous practice to be considered in determining who are represent ative wátándárs.

SECTIONS.

27. Registration of head of family as sole representative wátándár.
28. Registration of heads of families as representative wátándárs.
29. Registration of head of eldest family as sole representative wátándár. Registration of heads of separate families as representative wátándárs.
30. Registration as representative wátándár of head of each family in amalgamated wátán.
31. Procedure if heads of families agree as to who are representative wátándárs.
32. Right of service to remain after relinquishment of property.
33. Notice of adoption if heir has been adopted prior to passing of Act.
34. Notice of adoption when heir adopted after passing of Act.
35. Procedure if notice of adoption not duly given.
36. Death of representative wátándár to be reported; name of heir to be registered.
37. Guardian of minor watándár to perform duties of minor.

PART VII.

PERIODS OF SERVICE.

38. Representative wátándárs to serve for life or for fixed periods of five or ten years.
39. Procedure on death of officiator.
40. Election of officiator in rotation-wátán.
41. Mode of appointment if representative wátándárs fail to nominate officiator.

PART VIII.

OFFICIATING WÁTANDARS AND DEPUTIES.

42. Representative wátándár to perform duties of office.
43. Collector to determine number of officiators required.
44. Collector to appoint deputy if wátándár fails.
45. Collector when to refuse service of representative wátándár or of deputy nominated by him.
46. Procedure when representative wátándár or his deputy is unfit to officiate.
47. On cessation of disqualification, representative wátándár entitled to serve.
48. Second nomination of deputy.
49. Representative wátándár may officiate for deputy removed.
50. Collector may nominate deputy if representative wátándár rejected or removed.
51. Female cannot officiate, but may nominate deputy.
52. Collector to appoint deputy when officiator suspended.
53. Deputy must ordinarily be a member of the same family as the representative wátándár whose duty it is to officiate.
54. Term of appointment of deputy.
55. Officiator if absent or ill may appoint substitute.
56. Head of family when to be treated as wátándár.

PART IX.

PENALTIES.

SECTIONS.

57. Punishment of officiators.
58. Collector may remove officiator with sanction of Government.
59. Officiator removed from office ineligible for re-employment.
60. Government may direct forfeiture of a wátán.
61. Forfeiture of life interest of officiator and deputy for misconduct of deputy.
62. Order to be passed after investigation.

PART X.

INFERIOR VILLAGE HEREDITARY OFFICES.

63. Application of Part X.
64. Powers granted to Collector.

PART XI.

THE REGISTER.

65. Collector to prepare and keep register.
66. Non-service register what to contain.
67. Service register what to contain.
68. Register to be corrected.

PART XII.

MISCELLANEOUS.

69. Service to be performed by wátándárs.
70. Wátán records the property of Government.
71. Wátándárs may sign village-records.

PART XIII.

PROCEDURE AND APPEALS.

72. Evidence to be taken.
73. Orders under Parts III, V, VI and VII to be passed after investigation in writing.
Certain decisions passed since 1866 to be accepted in lieu of fresh investigation.
74. Control of proceedings of Collector.
75. Mámlatdár may make investigation under Part X.
76. No appeal to lie save where specially provided.
77. Appeals.
78. Copy of order to accompany petition of appeal.
Appeal may be summarily rejected.
79. Government may call for proceedings.
80. Notice how to be served.

SECTIONS.

81. Recoveries how made.
82. Government to frame rules.
83. Government to determine duties of hereditary officers.
84. Grant of powers to special officer.
85. Act not to affect Bombay Act VIII of 1867.

SCHEDULE.—[*Repealed.*]
SECOND SCHEDULE.—OFFENCES REFERRED TO IN SECTION 60.

BOMBAY ACT No. III OF 1874 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th February, 1875.*)

An Act to amend the law relating to hereditary offices.

Preamble.

WHEREAS it is expedient to declare and amend the law relating to hereditary offices; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Hereditary Offices Act.

It extends to the regulation districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms on which any such alienated village may have been secured to the holder thereof.

Nothing in this Act shall affect the powers of Government to deal with any wátán or parts of wátáns, or with the profits thereof, respectively, under Act No. XI of 1852 [b], or Bombay Acts Nos. II [c] and VII [d] of 1863, or any other law at present in force with respect thereto.

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[a] In applying Bom. Act III of 1874 (as amended by Bom. Act V of 1886) to Matádárs in the Districts of Ahmedabad, Kaira, Broach and Surat, and in villages in the Pánch Maháls district to which Bom. Act VI of 1887 is extended,—

(1) the meaning of the terms "wátán" and "wátándár", and ss. 33, 34 and 60, are subject to modification; and

(2) ss. 24 to 31, 36 to 59, 61, 62, 67, 69 and 71, parts of s. 73, and the definitions of "wátándár" and "representative wátándár" in s. 4, are to be deemed to be repealed—see Bom. Act VI of 1887, ss. 1 and 3, in Vol. III of this Code.

Subject to the said modifications and repeals, Bom. Act VI of 1887 is to be read as one with Bom. Act III of 1874—see Bom. Act VI of 1887, s. 4. For further modifications, see ss. 5 *et seq.* of the latter Act.

[b] Printed in Vol. I of this Code. p. 60.

[c] Printed *supra*, p. 17.

[d] Printed *supra*, p. 65.

2. [*Repeal of enactments.*] *Repealed by Act XII of 1876.*

3. Parts VI, VII, VIII and IX [a] shall not apply to hereditary offices of lower degree than patel or kulkarni, nor to wátáns appertaining to such offices. Application of Parts VI, VII, VIII and IX.

4. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"wátán-property" means the moveable or immoveable property held, acquired or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office;

it includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise;

it includes cash payments in addition to the original wátán-property made voluntarily by Government and subject periodically to modification or withdrawal:

"hereditary office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue or with the village-police, or with the settlement of boundaries, or other matters of civil administration;

the expression includes such office even where the services originally appertaining to it have ceased to be demanded:

the wátán-property, if any, and the hereditary office and the rights and privileges attached to them, together constitute the wátán:

[b] "wátándár" means a person having an hereditary interest in a wátán; it includes a person holding wátán property acquired by him before the introduction of the British Government into the locality of the wátán, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance; it includes a person adopted by an owner of a wátán or part of a wátán, subject to the conditions specified in sections 33 to 35 [a]:

"family" includes each of the branches of the family descended from an original wátándár: Provided that no sub-division shall be recognized except as hereinafter provided in section 26:

"head of a family" includes the chief representative of each branch of a family:

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] As to the local repeal of this definition see footnote [a] on last preceding page.

[a] "representative wátándár" means a wátándár registered by the Collector under section 25 [b] as having a right to perform the duties of a hereditary office:

"officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative wátándár or a deputy or a substitute appointed under any of the provisions [c] of this Act [c].

"guardian" means a relation or other person to whom the care, nurture or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent Court.

PART II.

WÁTÁN-PROPERTY AND PROFITS THEREOF.

Prohibition of alienation of wátán and wátán rights.

[d] 5. (*1*) Without the sanction of Government it shall not be competent—

(*a*) to a wátándár to mortgage, charge, alienate or lease, for a period beyond the term of his natural life, any wátán, or any part thereof, or any interest therein, to or for the benefit of any person who is not a wátándár of the same wátán;

(*b*) to a representative wátándár to mortgage, charge, lease or alienate any right with which he is invested, as such, under this Act.

(*2*) In the case of any wátán in respect of which a service commutation settlement has been effected, either under section 15 or before that section came into force, clause (*a*) of this section shall apply to such wátán unless the right of alienating the wátán without the sanction of Government is conferred upon the wátándárs by the terms of such settlement or has been acquired by them under the said terms.

Collector may institute legal proceedings for protection of wátán.

6. *Clause 1.*—In any case in which it shall appear to the Collector that the institution of legal proceedings is requisite or desirable with respect to any wátán, or the estate, property, funds or affairs thereof, the Collector shall

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[a] As to the local repeal of this definition see footnote [a] on p. 192, *supra*.

[b] Words repealed by Bom. Act III of 1886 are omitted.

[c-c] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

[d] This section was substituted for the original s. 5 by Bom. Act V of 1886, s. 1. As to postponement of female members, and as to interest of widow, see *ib.*, s. 2, in Vol. III of this Code.

certify such case in writing under his hand to the [a] Commissioner, together with such statements and particulars as in his opinion may be requisite or proper for the explanation of such case, and thereupon the said [a] Commissioner, if upon consideration of the circumstances he thinks fit, shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the wátán, its estates, property, funds or affairs, by suit or petition in any Civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the wátán.

Clause 2.—The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 [a] in lieu of instituting or prosecuting legal proceedings under this section.

Collector may proceed under sections 8 to 11, or 13.

7. Wátán-property assigned under section 23 [a] as remuneration of an officiator, and the profits of wátán-property so assigned, shall not be alienated or assigned to any person whatever without the sanction of Government.

Wátán assigned as remuneration not alienable without sanction.

8. Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of a wátándár other than such officiator; or

Wátán-property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

when any wátán, or part or profits thereof, not being assigned as remuneration of an officiator, has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any British Court or otherwise, into the ownership or beneficial possession of a wátándár other than such officiator;

such wátán or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

9. *Clause 1.*—Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have, before the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue-

Collector may declare alienation of wátán-property to be under certain circumstances null and void.

[a] Words repealed by Bom. Act III of 1886 are omitted.

records, into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such wátán or any part thereof, or any of the profits thereof, shall from the date of such order belong to the wátándár previously entitled thereto, and may recover and pay to such wátándár any profits thereof accordingly.

Collector may in case of land recover full rent.

Clause 2.—If such part of a wátán be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of land of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector as to what is the full rent shall be final.

Civil Court on Collector's certificate, to remove attachment on wátán-property assigned as remuneration of officiator.

10. When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any British Court any wátán or any part thereof, or any of the profits thereof, recorded as such in the revenue-records or registered under this Act, and assigned under section 23 [a] as remuneration of an officiator, has or have after the date [b]of this Act[b] coming into force, passed or may pass without the sanction of Government into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such wátán or any part thereof, or any of the profits thereof, not so assigned, has or have so passed [c]or may pass[c] into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Court shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a wátán or part of a wátán, or that such property constitutes the profits or part of the profits of a wátán, or is assigned as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said wátán or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order complained of so far as it concerns the said wátán or any part thereof, or any of the profits thereof.

Collector may declare null and void alienation of wátán-property made after passing of Act.

11. When any alienation of the nature described in section 10 [a] shall take place otherwise than by virtue of, or in execution of, a decree or order of any British Court, the Collector shall, after recording his reasons in writing, declare such alienation to be null and void.[d]

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b.b] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.
[c.c] These words were inserted by Bom. Act V of 1886, s. 3.
[d] Portion repealed by Bom. Act V of 1886, s. 4, is omitted.

[a] **11A.** The Collector shall either summarily resume possession of all property to which an order of a Court passed on receipt of his certificate under section 10, or his own declaration under section 11, relates, or assess it at the rate prescribed in clause (*2*) of section 9, as he may think fit, and the said property shall thenceforward revert to the wátán.

Resumption of property to which an order made under section 10 or section 11 applies.

12. It shall be lawful for the Collector, whenever it may be necessary, in carrying out the provisions of sections 8, 9, and 11 [b]—

(*a*) to summarily evict any person wrongfully in possession of any land, or

(*b*) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue demand.

Powers of Collector to carry out provisions of sections 8, 9 and 11.

13. Wátán-property as signed as remuneration of an officiator under section 23 [b] and the profits of such wátán-property are not liable to process of any Civil Court.

On receipt of a certificate under the hand and seal of a Collector, to the effect that certain property designated therein is wátán-property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

Wátán assigned as remuneration not liable to process of Court.

14. *Clause 1.*—It shall be lawful for a Collector, for reasons to be stated in writing, to combine two or more wátáns held for the performance of similar services in the same village or parts of the same village.

Combination of hereditary offices.

Clause 2.—[*Validation of prior combinations.*] *Repealed by Act XVI of 1895.*

PART III.

COMMUTATION OF WÁTÁNS.

15. *Clause 1.*—The Collector may, with the consent of the holder of a wátán, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder.

Commutation of service.

Clause 2.—[*Validation of prior settlements.*] *Repealed by Act XVI of 1895.*

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[a] Section 11A was inserted by Bom. Act V of 1886, s. 5.
[b] Words repealed by Bom. Act III of 1886 are omitted.

Settlement on whom to be binding.

Clause 3.—Every settlement made or confirmed under this section shall be binding upon both Government and the holder of the wátán and his heirs and successors.

Who is a "holder".

Clause 4.—The word "holder," for the purposes of this section, includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government-records at the time of the settlement.

Rights of individuals to exact customary service from village-servants not affected.

16. Nothing in the last preceding section shall be held to affect any rights of individuals or village-communities to exact such service as may be customary from village-servants whose wátáns were originally granted or are now held for the performance of such service, but who have been relieved by Government of liability to perform such service to the State.

Assessment of amount of payments in alienated villages.

17. When all or any of the property of a watan consists of payments of whatever description, whether in money or kind, made by jágírdárs, inámdárs, mehwassi chiefs, or others owning or occupying immoveable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable: Provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages.

Appointment of pancháyat to define rights and duties of certain classes of wátándárs.

18. When all or any of the property of a village-wátán of lower degree than that of patel or kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families or classes liable to make payment and to perform the duties, to be defined in writing by a pancháyat of five persons, whereof two shall be appointed by the villagers, two by the wátándárs, and one, who shall be sar-pánch, by the Collector.

The decision shall be in accordance with the opinion of the majority of the pancháyat: Provided that, in case the villagers or the wátándárs fail to nominate members within seven days, the Collector shall appoint such members as may be required to constitute a pancháyat of five:

Provided also that, in case the pancháyat do not come to a decision within seven days from the appointment of the sar-pánch, the Collector may himself pass a decision.

The decision of the pancháyat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

19. Whenever, on failure of the panchâyat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the wátán or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money.

Mode of fixing amount payable when profits of wátán fluctuate.

20. Any settlement of the nature described in sections 17, 18 or 19 [a] made before the date of this Act coming into force, by a Collector or other officer duly authorized by Government, shall have the same force as if made under this Act.

Validity of settlements made prior to passing of Act.

21. Settlements of the nature described in sections 17, 18 and 19 [a], made after this Act comes into force, shall be made for such periods as the Governor in Council may from time to time direct.

Settlements for such period as Government may direct.

PART IV.

Creation and Lapse of Wátáns.

22. When no wátán exists, it shall be lawful for Government to create one, and in so doing to assign, subject to such sanction as may be required by any law, or order of the Governor General of India in Council, for the time being in force, such property of Government as to Government may seem fit.

Creation of new wátáns.

Such wátán shall be subject to all the provisions of this Act, and the wátándárs shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force.

When a wátán or part of a wátán has lapsed or has been confiscated or otherwise lawfully resumed by Government, or when the right of any particular family to hold a wátán does not exist or is not established, it shall be lawful for Government, subject to the sanction mentioned in the first clause of this section, to assign such wátán or part of a wátán to such person or persons as to Government may seem fit.

PART V.

Remuneration of Officiators.

23. Subject to the provisions of this Act and of any other law for the time being in force regarding service-ináms, cash allowances and pensions, it

Collector to fix emoluments of

[a] Words repealed by Bom. Act III of 1886 are omitted.

shall be the duty of the Collector to fix the annual emoluments of officiators appointed under the provisions of this Act, and to direct the payment thereof to the officiators for the time being.

Collector may assign wátán property for purpose.

It shall be lawful for the Collector for this purpose to assign wátán property, or the profits thereof, towards the emoluments of officiators.

The existing assignments shall, until altered by competent authority, be taken to have been made under this section.

With the sanction of Government the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the wátán.

PART VI.

REPRESENTATIVE WÁTÁNDÁRS.

Duties to be performed by representative wátándárs.

[a] **24.** The duties appertaining to any hereditary office shall be performed by the representative wátándárs or by deputies or substitutes as hereinafter provided, and by no other persons.

Determination and registration of representative wátándárs.

[a] **25.** It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the wátán as to service and what persons shall be recognized as representative wátándárs for the purpose of this Act, and to register their names.

Previous practice to be considered in determining who are representative wátándárs.

[a] **26.** In determining what heads of families shall be recognized as representative wátándárs and what is the custom of the wátán as to service, the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available:

Provided that he shall not be bound to recognize appointments or subdivisions which have been made subsequently to the introduction of Act No. XI of 1843 [b], and which he considers to be contrary to the custom of the wátán.

Registration of head of family as sole representative wátándár.

[a] **27.** If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative wátándár and no other person.

Registration of heads of families as representative wátándárs.

[a] **28.** If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contempora-

[a] As to the local repeal of ss. 24 to 28 see footnote [a] on p. 192, *supra*.
[b] Act XI of 1843 was repealed by s. 2 of this Act.

neously or for successive periods, the Collector shall register the name of the head of each of such families as representative wátándárs and no other persons, and, where the practice of service in successive periods is proved to exist, he shall decide the order in which the representative wátándárs shall officiate.

Registration of head of eldest family as sole representative wátándár.

[a] **29.** *Clause 1.*—Where the practice of service in successive periods appears to have existed, but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of Act No. XI of 1843 [b], or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original wátándár, and shall register his name as sole representative wátándár.

Registration of heads of separate families as representative wátándárs.

Clause 2.—In cases where such several families are not descended from a common ancestor, the Collector shall register as representative wátándárs the heads of such families, and establish the practice of service in successive periods.

Registration as representative wátándár of head of each family in amalgamated wátán.

[a] **30.** When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of officiators [c] or the amalgamation of wátáns by Government, the head of each family that formerly officiated shall be separately entered as a representative wátándár.

Procedure if heads of families agree as to who are representative wátándárs.

[a] **31.** But, if in any case described in section 29, [d] the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the representative wátándárs, and as to the order of service, then the register prescribed in this Act shall be prepared in accordance with such agreement.

Right of service to remain after relinquishment of property.

32. When wátán property or profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the wátándárs were still in receipt of such emoluments.

Notice of adoption if heir has been adopted prior to passing of Act.

[a] **33.** In any case in which, before the coming of this Act into force, any registered representative wátándár or his widow shall have adopted

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[a] As to the local repeal of ss. 29 to 31, and modification of s. 33, see footnote [a] on p. 192, *supra*.
[b] Act XI of 1843 was repealed by s. 2 of this Act.
[c] "Officiators" was substituted for "sharers" by Bom. Act V of 1886, s. 6.
[d] Words repealed by Bom. Act. III of 1886 are omitted.

an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly.

But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Notice of adoption when heir adopted after passing of Act.

[a] **34.** In any case in which, after the coming of this Act into force, any registered representative wátándár or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such wátándár, or by his widow, or in case of their death then by such adopted heir, or by the guardian of the latter, and the Collector shall register the name of such heir accordingly.

But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Procedure if notice of adoption not duly given.

35. In any case in which [b] notice or [b] report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.

Death of representative wátándár to be reported; name of heir to be registered.

[a] **36.** When any representative wátándár dies it shall be the duty of the patel and village-accountant to report the fact to the Collector; and the Collector shall, if satisfied of the truth of the report, register the name of the eldest son or other person appearing to be nearest heir of such wátándár as representative wátándár in place of the wátándár so deceased.

A certificate of heirship or a decree of a competent Court shall, until revoked or set aisde, be conclusive proof of the facts stated or determined in such certificate or decree.

Guardian of minor wátándár to perform duties of minor.

[a] **37.** When any head of a family or representative wátándár is under the age of eighteen years, his guardian may, subject to the provisions of section 51[c], exercise all powers and perform all duties conferred and imposed by this Act.

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[a] As to the local modification of s. 34 and repeal of ss. 36 and 37, see footnote [a] on p. 192, *supra*.
[b-b] These words were inserted by Bom. Act V of 1886, s. 7.
[c] Words repealed by Bom. Act III of 1886 are omitted.

PART VII.

PERIODS OF SERVICE.

Representative wátándárs to serve for life or for fixed periods of five or ten years.

[a,b] **38.** Subject to the provisions of sections 45 and 46, representative wátándárs shall be entitled to office for the following periods, respectively, (namely) :—

(*a*) in cases falling under section 28 or section 29, clause (2), or section 30 or section 31, in which the representative wátándárs are entitled to office contemporaneously, and in cases falling under section 27 or section 29, clause (1), } for life.

(*b*) in cases falling under section 28 or section 29, clause (2), or section 30 or section 31, in which the representative wátándárs are entitled to office in successive periods, } for such period as the Collector shall in each case determine, the same being not less than five nor more than ten years.

Procedure on death of officiator.

[a] **39.** In the event of the officiating wátándár dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII [c], be entitled to officiate for the remainder of that period.

Election of officiator in rotation wátán.

[a] **40.** *Clause 1.*—In the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative wátándár to perform the duties, issue a notice to the whole body of registered representative wátándárs calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43 [c].

Clause 2.—If not less than three-fourths, including the wátándár whose turn it is to officiate, of the representative wátándárs appear at the appointed time and place and unanimously nominate a fit and proper person or persons being a wátándár or wátándárs of the same wátán, the person or persons so nominated shall be entitled to officiate in the place and for the period of service of the representative wátándár whose turn it is perform the duties.

Clause 3.—If the person or persons so nominated be other than the representative wátándár whose turn it is to perform the duties, he or they shall

[a] As to the local repeal of ss. 38 to 40—see footnote [a] on p. 192, *supra*.
[b] This section was substituted for the original s. 38 by Bom. Act V of 1886, s. 8.
[c] Words repealed by Bom. Act III of 1886 are omitted.

for all the purposes of this Act, be deemed to be the duly appointed deputy or deputies of the said representative wátándár.

Mode of appointment if representative wátándárs fail to nominate officiator.

[a] **41.** If, in the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the representative wátándárs shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative wátándár entitled to officiate and as to appointment of deputies shall apply.

PART VIII.

Officiating Wátándárs and Deputies.

Representative wátándár to perform duties of office.

[a] **42.** Every representative wátándár whose duty it is to officiate shall, if a fit and proper person, perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy.

Collector to determine number of officiators required.

[a] **43.** The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirement may call upon the representative wátándár aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative wátándárs who have hitherto served or are serving contemporaneously.

Collector to appoint deputy if wátándár fails.

[a] **44.** If any requisition of the Collector under sections 42, 43, 46 or 48 [b] is not complied with within two months from the date thereof, the Collector may himself appoint a deputy or deputies.

Collector when to refuse service of reprsentative wátándár or of deputy nominated by him.

[a,c] **45.** The Collector shall refuse to accept the service of any representative wátándár or of any person nominated by a representative wátándár to be his deputy, if such representative wátándár or person—

(*a*) is under eighteen years of age;

(*b*) has not passed such educational test, if any, as Government think fit from time to time to prescribe in this behalf;

(*c*) has attained sixty years of age, except when such person's appointment or continuance in office is specially permitted by the Collector;

[a] As to the local repeal of ss. 41 to 45, see footnote [a] on p. 192, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] This section was subtituted for the original s. 45 by Bom. Act V of 1886, s. 9.

(*d*) is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body;

(*e*) has been adjudged by the Collector after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the Bombay Land-revenue Code, 1879, [a] to be of general bad character;

Bom. V of 1879.

(*f*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

(*g*) declines to forsake, whilst officiating, some other employment which is, in the opinion of the Collector, incompatible with the due discharge of the duties of the office.

Procedure when representative wátándár or his deputy is unfit to officiate.

[b,c] **46.** If a representative wátándár whose duty it is to officiate is, or at any time becomes, unfit to officiate for any of the reasons set forth in the last preceding section, the Collector shall call upon him to appoint a deputy, or, if he is disabled by lunacy or imbecility of mind, the Collector shall himself appoint a deputy.

If a deputy so appointed becomes unfit to officiate for any of the reasons aforesaid, the Collector shall call upon the representative wátándár to appoint another, or himself appoint another, as the case may be.

A deputy appointed by a representative wátándár may at any time be removed from office by the Collector at the request of the representative wátándár, if, in the opinion of the Collector, there are good grounds for such request.

On cessation of disqualification, representative wátándár entitled to serve.

[b] **47.** Whenever a representative wátándár whose duty it is to officiate ceases to be disqualified under the provisions of sections 45 and 46 [d], he shall become entitled, if otherwise fit, to serve in person or to appoint a deputy in supersession of any deputy appointed by the Collector.

Second nomination of deputy.

[b] **48.** In the case of any nomination of a deputy, the Collector shall allow a second nomination to be made in case of his rejecting the first nomination, and, if he shall reject the second nomination, he shall himself appoint a deputy.

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[a] Printed, *infra*.
[b] As to the local repeal of ss. 46 to 48, see footnote [a] on p. 192, *supra*.
[c] This section was substituted for the original s. 46 by Bom. Act V of 1886, s. 10.
[d] Words repealed by Bom. Act III of 1886 are omitted.

Representative wátándár may officiate for deputy removed.

[a]**49.** The representative wátándár whose duty it is to officiate may himself, if otherwise fit, perform the duties in place of any deputy removed or rejected by the Collector, or deceased.

Collector may nominate deputy if representative wátándár rejected or removed.

[a]**50.** When a representative wátándár has been rejected as being of general [b] bad character, or removed on account of grave misconduct under the provisions of section 58[c], the Collector himself may nominate and appoint a deputy.

Female cannot officiate, but may nominate deputy.

[a] **51.** No female shall perform in person the duties of any hereditary office; but if a representative wátándár, or the guardian of a representative wátándár, she may appoint a deputy.

Collector to appoint deputy when officiator suspended.

[a] **52.** During the suspension of an officiating representative wátándár or deputy, and during any vacancy, the duties shall temporarily be performed by a substitute, whether a wátándár or not, appointed by the Collector.

Deputy must ordinarily be a member of the same family as the representative wátándár whose duty it is to officiate.

[a, d] **53.** Except as is otherwise provided in the last preceding section and in section 56, and except as the Governor in Council shall by a general or special order from time to time otherwise direct, every deputy appointed under this Act shall be a member of the same family to which the representative wátándár whose duty it is to officiate, belongs, if there be a member of such family fit and willing to officiate.

If a representative wátándár declines to appoint as his deputy any such person as aforesaid, the appointment shall be made by the Collector.

Term of appointment of deputy.

[a] **54.** When the Collector appoints a deputy, it shall be for a term not exceeding five years.

When a wátándár entitled to officiate appoints a deputy, it shall be for a term not less than five years, or for life.

The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative wátándár under the age of eighteen years shall terminate on the attainment by such representative wátándár of that age.

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[a] As to the local repeal of ss. 49 to 54, see footnote [a] on p. 192, *supra*.
[b] "General" was substituted for "known" by Bom. Act V of 1886, s. 11.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d] This section was substituted for the original s. 53 by Bom. Act V of 1886, s. 12.

[a] **55.** In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61[b].

Officiator if absent or ill may appoint substitute.

[a] **56.** When the hereditary right to perform the duties of an hereditary office as deputies of the original wátándár is vested in a family distinct from that of the original wátándár, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative wátándárs.

Head of family when to be treated as wátándár.

PART IX.

PENALTIES.

[a] **57.** It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by fine not exceeding the fourth part of the annual emolument provided for the officiator.

Punishment of officiators.

The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district-officer.

[a] **58.** It shall be lawful for the Collector, with the previous sanction of Government, in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office.

Collector may remove officiator with sanction of Government.

[a] **59.** Whoever is removed from office under the preceding section shall be ineligible for re-employment or continuance in any hereditary office, except with the sanction of Government, and in case he be a representative wátándár, and his period of performing the duties recurs, the appointment of a deputy under the provisions of Part VIII [b] shall, on the recurrence of such period, be made by the Collector and not by him.

Officiator removed from office ineligible for re-employment.

[a,c] **60.** When any representative wátándár, or any deputy or substitute appointed by him, is convicted by a Criminal Court, not inferior to a Court of Session, of any offence in the discharge of his official duties, or of any of the offences specified in the second schedule, or of the abetment of any such

Government may direct forfeiture of a wátán.

[a] As to the local repeal of ss. 55 to 59 and modification of s. 60 see foot-note [a] on p. 192, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] This section was substituted for the original s. 60 by Bom. Act V of 1886, s. 13.

offence, and such conviction is not subsequently reversed or quashed, the Governor in Council may direct the forfeiture of the whole or of any part of the wátán. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit.

Forfeiture of life-interest of officiator and deputy for misconduct of deputy.

[a] **61.** All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative wátándárs themselves are subject to when officiating, and, in the case specified in section 58 of this Act, it shall be lawful for Government to direct the forfeiture of the life-interest in the wátán of the representative wátándár entitled to officiate, whether the officiator guilty of misconduct be such representative wátándár himself or a deputy appointed by him.

Order to be passed after investigation.

[a] **62.** No order shall be passed under this Part except upon perusal of the judgment of a Court or after investigation recorded in writing.

PART X.

INFERIOR VILLAGE HEREDITARY OFFICES.

Application of Part X.

63. This Part applies only to hereditary village-offices of lower degree than that of patel or kulkarni.

Powers granted to Collector.

64. The Collector is empowered, subject to the general control of Government—

(*a*) to register the names of individual wátándárs as holders of the office, or to register it as held by the whole body of wátándárs:

(*b*) to determine, when individual names are so registered, the rights, duties, and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the wátándárs, or otherwise, as may be expedient:

(*c*) to require, in cases where the registration is made in the name of the whole body of wátándárs, that they appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector; in default of such appointment being made, the Collector may himself appoint:

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[a] As to the local repeal of ss. 61 and 62, see footnote [a] on p. 192, *supra*.

(*d*) to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives; and, in cases where the crime of cattle-poisoning is prevalent, with the sanction of Government to attach, during the pleasure of Government, the wátáns of the persons whom he may have reason to believe to have been guilty of, or to have connived at the commission of the crime:

(*e*) to pass orders in regard to appointment, remuneration, period of service, suspension, fining and dismissal of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.

PART XI.

THE REGISTER.

Collector to prepare and keep register.

65. The Collector shall prepare and keep all registers necessary for the purposes of this Act in the form which Government may from time to time prescribe. There shall be one register of lands and allowances in consideration whereof liability to perform service exists, and another of lands and allowances in respect of which no such liability exists.

Non-service register what to contain.

66. In the register of lands and allowances the holders whereof are exempt from service, the Collector shall specify—

(*a*) the area of the lands, the survey-number and assessment, the quit-rent leviable, and the nett revenue alienated by Government:

(*b*) the amount and nature of the cash or other allowances, and the source from which they are payable:

(*c*) the terms of the settlement under which the exemption is enjoyed:

(*d*) the names of the parties to such settlement with Government as indicated in the sanads issued to them:

(*e*) such other particulars as Government may from time to time order to be recorded.

Service register what to contain

[a]**67.** In the register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify—

(*a*) the area of the lands, the names of the occupants, the survey number and assessment, the quit-rent, if any, leviable, and the nett revenue alienated by Government, the amount and nature of the cash or

[a As to the local repeal of s. 67, see foot note [a] on p. 192, *supra*.

other allowances, the source from which they are payable, and the land and allowances assigned, for the remuneration of officiators:

(*b*) the names of the heads of families and of the representative wátándárs:

(*c*) whether the service is performed by one representative wátándár or otherwise: if by several in successive periods, the order in which they are to succeed each other:

(*d*) the proportional share of the wátán possessed by each head of family which may be expressed in annas or fractions of a rupee:

(*e*) the number of officiators required to perform the duties:

(*f*) the nature of the settlement of inferior village-wátáns referred to in Part X [a]:

(*g*) such other particulars as Government may (from time to time) order to be recorded.

Register to be corrected.

68. The register kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

PART XII.

MISCELLANEOUS.

Service to be performed by wátándárs.

[b]**69.** All wátándárs of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.

Wátán records the property of Government.

[c]**70.** All records which have been or may be prepared by any wátándár or by any officiator in an hereditary office in pursuance of the duties of the office, or by order of a superior officer or of the present or former Government, are hereby declared to be the property of Government, and the Collector may enforce their production or the production of any State records in the possession of a wátándár or of an officiator, in accordance with the provisions of sections 25 and 26 of the Bombay Land-revenue Code, 1879 [d]. Bom. V of 1879.

Wátándárs may sign village-records.

[b]**71.** With regard to hereditary offices not inferior to that of patel or kulkarni, it is hereby declared that every head of a family shall have the privilege of signing the abstract of village-land and revenues or other village-papers which it may be customary for him to sign.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] As to the local repeal of ss. 69 and 71, see footnote [a] on p. 192, *supra*.
[c] This section was substituted for the original s. 70 by Bom. Act V of 1886, s. 14.
[d] Printed *infra*.

PART XIII.

PROCEDURE AND APPEALS.

Evidence to be taken.

72. *Clause 1.*—It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the Indian Penal Code [a] the words "judicial proceeding" shall be taken to include any proceeding under this Act.

XLV of 1860.

Clause 2.—Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend or to produce such document.

Orders under Parts III, V, VI and VII to be passed after investigation in writing.

[b] 73. *Clause 1.*—Except as hereinafter provided in clause 2 of this section, no order under Part III [c] directing commutation of a wátán, or under Part V [c] assigning the remuneration of officiators, or under Part VI[c] determining the custom of the wátán as to service and what persons should be registered as heads of families or representative wátándárs, or under Part VII [c] determining the periods of service, shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.

In each such investigation, and in removals from office under section 58[c] the Collector or other officer shall records his decision with the reasons therefor in his own handwriting.

Certain decisions passed since 1866 to be accepted in lieu of fresh investigation.

Clause 2.—Unless the Governor in Council shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing, and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded with the reasons therefore, in the handwriting of a Collector or his assistant or deputy, shall be accepted, in so far as they may not be inconsistent with the provisions [d] of this Act[d], in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67 [c].

If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.
[b] As to the local repeal of parts of s. 73, see footnote [a] on p. 192, *supra*.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d-d] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

from such evidence in lieu of fresh investigation for the completion of the register.

Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

Control of proceedings of Collector.

74. The proceedings of the Collector shall be under the general control of the [a] Commissioner [a] and of Government.

Mámlatdár may make investigation under Part X.

75. The Collector may require any investigation under Part X [a] to be made by a mámlatdár or mahálkari, but the decision thereon shall be made by the Collector.

No appeal to lie save where specially provided.

76. No appeal shall lie from any order made under section 64, clause (c) [a] before final order, nor from any order registering any fact specified under section 67, clauses (*b*), (*c*), (*d*) and (*e*) [a] where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of Government.

Appeals.

77. Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector or Deputy Collector [a].

Such appeal, if from the decision of an Assistant Collector or Deputy Collector [a], shall lie to the Collector, and shall be made within sixty days from the date of the order appealed against.

Such appeal, if from the decision of the Collector, shall lie to the [b] Commissioner, and shall be made within ninety days from the date of the order appealed against.

In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

Copy of order to accompany petition of appeal. Appeal may be summarily rejected.

78. Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

Government may call for proceedings.

79. Government may call for and examine the record of the proceedings of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reverse or modify the order as shall seem fit, or, if it seem necessary, may order a new enquiry.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] The word repealed by Act XVI of 1895 is omitted.

80. Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village chaunrí or other public place in the village not less than seven days before action is required to be taken by any person thereon. Notice how to be served.

81. All recoveries of profits from land, assessments, emoluments or penalties under this Act may be made as provided by any law for the time being in force relating to the recovery of the land-revenue. Recoveries how made.

82. Government may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules. Government to frame rules.

83. Except as is otherwise provided in section 18 [a], Government shall have power, in cases where doubt exists, to determine what duties appertain to any hereditary office. Government to determine duties of hereditary officers.

84. The Governor in Council may from time to time confer on any officer specially selected for the purpose [b] or, so far as concerns any alienated village, on the holder or on any of the holders of such village or on any agent of the holder of such village [b], all or any of the powers and duties which under this Act are required to be performed by a [a] Commissioner or a Collector, and may authorize the delegation to any mámlatdár or mahálkari of the power to fine hereditary village-officers in sums not exceeding two rupees. Grant of powers to special officer.

[c] Powers and duties conferred under this section shall be exercised or performed subject to such conditions, if any, in addition to those specified in this Act, as the Governor in Council shall from time to time think fit to prescribe, and any order conferring powers and duties under this section may at any time be cancelled by the Governor in Council.

85. Nothing in this Act contained shall be deemed to affect Bombay Act VIII of 1867 [d] or any other law for the time being in force, defining the duties and powers of village-officers or imposing penalties for misconduct; and all references in such laws to Act XI of 1843 [e] shall be taken as made to this Act. Act not to affect Bombay Act VIII of 1867.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b-b] These words were inserted by Bom. Act V of 1886, s. 15 (1).
[c] This paragraph was added by Bom. Act V of 1886, s. 15 (2).
[d] Printed *supra*, p. 120.
[e] Act XI of 1843 was repealed by s. 2 of this Act.

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XII of 1876.

SECOND SCHEDULE [a].

OFFENCES REFERRED TO IN SECTION 60.

Description of offence.	Sections of the Penal Code [b] under which punishable. XLV of 1860.
(1) Every offience described in Chapter VI of the Indian Penal Code[b]	121, 121A, 122—124, 124A, 125—130.
(2) Causing disappearance of evidence of any offence committed, or giving false information touching it to screen the offender, when the offence committed is a capital offence, or punishable with transportation for life or imprisonment for ten years	201.
(3) Harbouring an offender, if such offender's offence be capital, or punishable with transportation or imprisonment for ten years	212.
(4) Taking gift, etc., to screen an offender from punishment, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years	213.
(5) Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years	216.

[a] This Schedule was added by Bom. Act V of 1886, s. 16.

[b] For Act XLV of 1860 see revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

BOMBAY ACT No. III OF 1875 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th December, 1875.*)

An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.

WHEREAS tolls have been levied in the Presidency of Bombay in accordance with Act XV of 1864 [b] since the thirtieth day of July, 1864, but doubts have arisen whether the said Act has been formally extended to the said Presidency; and whereas it is expedient to remove the said doubts and to consolidate in one Act the provisions for the levy of tolls upon public roads and bridges in the said Presidency; It is enacted as follows:— Preamble.

1. Act VIII of 1851 [b] is hereby repealed in so far as it affects the Presidency of Bombay [c]. Repeal of Act VIII of 1851.

2. [*Act XV of 1864 deemed to have been extended to Bombay Presidency from 30th July 1864.*] *Repealed by Act XVI of 1895.*

3. The Governor in Council may cause such rates of tolls, not exceeding the rates mentioned in the schedule annexed to this Act, to be levied upon any road or bridge which has been or shall hereafter be made or repaired at the expense of the Government or from funds collected under the provisions of Bombay Act III of 1869 [d], or other funds levied under the authority and subject to the general control of Government, and may place the collection of such tolls under the management of such persons as may appear to him proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land-revenue [e]. Rates of tolls to be levied.

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[a] Bom. Act III of 1875 has been declared, by notification under the Scheduled Districts Act, 1874, to be in force in the Province of Sindh—see Appendix to Vol. I of this Code, p. xxxvi.

No tolls leviable under Bom. Act III of 1875 are to be levied within any local area notified under the Bombay Highway Act, 1883—see Bom. Act I of 1883, s. 7, in Vol. III of this Code.

The net proceeds of certain tolls levied under Bom. Act III of 1875 are to be credited to the Local Fund constituted by Bom. Act I of 1884—see s. 44 of the latter Act, in Vol. III of this Code.

[b] Printed, General Acts, 1834-66, Ed. 1887.

[c] Notwithstanding the repeal of Act VIII of 1851, the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit, to be levied in respect of the Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper: and all the provisions of that Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were re-enacted *verbatim*—see Act VIII of 1892, s. 2.

As to validation of past levy or collection of tolls on the Lansdowne Bridge, see *ib.*, s. 3.

[d] Printed *supra*, p. 133.

[e] Words repealed by Act XVI of 1895 are omitted.

"Persons" defined.

[a] *Clause 2.* The word "persons" in this section shall be deemed to include local boards established under the Bombay Local Boards Act, 1884. Bom. I of 1884.

Precedure in case of non-payment of tolls.

4. In case of non-payment of any such toll on demand, the officers appointed to collect the same may in the first place seize any part of the burden or load of the carriage or animal on which the toll is chargeable, of sufficient value to defray the toll, or, in the event of the burden or load being insufficient, such carriage or animal;

and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned on demand to the owner of the property; and the said officer on receipt of the property shall forthwith issue a notice, that at noon of the next day, exclusive of Sunday or any close holiday, he will sell the property by auction:

Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

Exemptions from toll.

Government may grant other exemptions.

5. No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of Police-officers on duty, or of any person or property in their custody. And it shall further be lawful for His Excellency the Governor in Council, by notification in the Government Gazette, to grant and define other exemptions from payment of the tolls levied under this Act.

Police-officers bound to assist toll-collectors.

6. All Police-officers shall be bound to assist the toll-collectors, when required, in the execution of this Act, and for that purpose shall have the same power which they have in the exercise of their ordinary police duties.

Penalty on unauthorized person demanding tolls, and for illegal demand.

7. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bázár situated thereon, and also every person who shall unlawfully and extortionately demand or take any other or higher toll

[a] This clause was substituted for the original cl. 2 by Bom. Act I of 1884, s. 77, which, however, does not extend to Aden or the City of Bombay. The said Act is printed in Vol. III of this Code.

than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment [a] for any term not exceeding six[a] months, or to fine not exceeding rupees two hundred, any part of which fine may be awarded by the Magistrate to the person aggrieved, but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court of the district.

Table of tolls to be put up at gate or station.

8. A table of the tolls authorized to be taken at any toll-gate or station, legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any uulawful toll, shall be furnished by Government to the Collector of tolls, and the same shall by him be kept in a conspicuous place near such gate or station.

Collectors of tolls may compound for tolls.

9. Any person entrusted with the management of the collection of tolls under this Act may in his discretion compound for any period, not exceeding one year, with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of tolls specified in the schedule to this Act.

Power of Government to lease the levy of tolls.

[b]**10.** It shall be lawful for the Government to lease the levy of tolls at such rates not exceeding the rates mentioned in the schedule annexed to this Act upon any public road or bridge by public auction or private contract from year to year or for a longer period not exceeding seven years on such terms and conditions as the Government may deem desirable :

Provided that the lessee shall give security for the due fulfilment of such conditions, and that all sums payable under the terms and conditions of the lease shall be recoverable as a demand for the land-revenue under the law for the time being in force so far as applicable.

Acts of lessee or his agent.

[b]**11.** When the tolls on any public road have been duly leased, the lessee, and every person employed by the lessee as his agent for collecting the tolls, shall be deemed to be persons appointed to collect tolls under this Act, and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect tolls under this Act.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Ss. 10 and 11 were inserted by Bom. Act V of 1881, s. 2.

Application of tolls.

[a] *12. The nett proceeds of the tolls* [b]*and leases of tolls*[b] *under this Act shall be applied wholly to the construction, repair and maintenance of roads and bridges within the Presidency of Bombay:*

Provided that the nett proceeds of tolls [c]*and leases of tolls*[c] *on roads or bridges constructed by or belonging to any local fund committee shall be applied to the construction and maintenance of roads or bridges in the district under the superintendent of such local fund committee.*

SCHEDULE.

	R	A.	P.
On every four-wheeled carriage on springs	1	0	0
On every two-wheeled carriage on springs	0	8	0
On every ekka or hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses or mules, if laden .	1	0	0
Ditto, if not laden .	0	8	0
On every cart and hackery not on springs drawn by 6 bullocks, buffaloes, horses, ponies, asses or mules, if laden .	0	12	0
Ditto, if not laden .	0	6	0
On every cart and hackery not on springs drawn by 4 bullocks, buffaloes, horses, ponies, asses or mules, if laden .	0	8	0
Ditto, if not laden .	0	4	0
On every cart and hackery not on springs drawn by 2 bullocks, buffaloes, horses, ponies, asses or mules, if laden .	0	4	0
Ditto, if not laden .	0	2	0
Buffaloes, or bullocks, per head, if laden	0	1	0
Ditto ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	4	0
Ditto, if not laden	0	2	0

[a] The number of this section was altered from 10 to 12 by Bom. Act V of 1881, s. 2. The section is repealed, except in Aden and the City of Bombay, by Bom. Act I of 1884, s. 2, printed in Vol. III of this Code.

[b-b, c-c] These words were substituted for the original word by Bom. Act V of 1881, s. 3.

SCHEDULE—*continued.*

	R	A.	P.
On every horse, if laden or ridden	0	1	6
Ditto, unladen or led	0	0	9
On every pony or mule, if laden or ridden	0	0	9
Ditto unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep or goat or pig	0	0	1
On every pálankín, dúlí, pálná or tonjon, with 8 bearers	1	0	0
Ditto ditto ditto, with 6 bearers	0	12	0
Ditto ditto ditto, with 4 bearers	0	8	0
On every foot-passenger with the special sanction of Government on bridges or hill roads	0	0	3

Explanation I.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

Explanation II.—No second toll shall be levied on the same carriage or animal returning on the same day.

BOMBAY ACT No. I OF 1876 [a].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 9th March, 1876.)

An Act to amend Bombay Act VIII of 1867.

WHEREAS doubts have arisen whether a Police-patel, or other village-police-servant, may lawfully be suspended from office either during inquiry into alleged misconduct, or by way of punishment for misconduct, and it is expedient to remove such doubts; It is enacted as follows:— Preamble.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VIII of 1867 as printed on pp. 120 *et seq.*, *supra*.]

THE BOMBAY CITY LAND-REVENUE ACT, 1876.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY

SECTIONS.

1. Short title.
   Extent.
2. Regulation XIX of 1827 repealed.
3. Interpretation-clause.

PART II.

THE COLLECTOR OF BOMBAY AND HIS SUBORDINATES.

4. Chief control in revenue matters.
5. Appointment and duties of Collector of Bombay.
6. His assistants and establishment how appointed; their duties, and powers.
7. Punishment for misconduct.

PART III.

ASSESSMENT AND COLLECTION OF LAND-REVENUE.

8. Collector to fix and levy land-revenue.
9. Settlement of assessment with whom to be made.
10. Liability for land-revenue.
11. Claims of Government to have precedence.
12. Collector to direct to whom and when and where revenue to be paid.
13. On default in payment, defaulter's property may be attached and sold.
    Sales how held.
    Defaulters may be arrested and confined.
14. Collector's decision to be acted on in first instance; but may be stayed on security being furnished.
15. Compulsory process to cease on payment under protest, or on instituting suit and furnishing security.
16. Fees in respect of warrant for attachment and sale of defaulter's property.
    Additional fee.

PART IV.

THE REVENUE JUDGE.

SECTIONS.

17. Revenue Judge.
Duties and powers.
18. Suits before Revenue Judge how conducted.
Appeals how and to whom to lie.
Decrees how executed.

PART V.

THE BOMBAY CITY-SURVEY AND BOUNDARY-MARKS.

19. Bombay City-survey recognized.
20. Responsibility for maintenance and repair of boundary-marks.
21. Collector or subordinates may enter upon lands.
22. Collector may require superior holders to renew or repair survey-marks.
Requisition how made.
23. On default, Collector or assistants may enter and renew or repair.
Charge for renewal or repair.

PART VI.

GOVERNMENT LANDS AND FORESHORE.

24. Right of Government to lands and foreshore.
25. Such lands and foreshore how disposed of.

PART VII.

ENCROACHMENTS.

26. Power to abate encroachments on Government land or foreshore; or to charge for and assess land, and then enter it in name of encroacher.
27. Value and land-revenue how calculated.
28. Encroachments made before passing of Act how dealt with.
29. Encroachments before passing of Act defined.
Value and land-revenue payable in respect thereof how calculated.

PART VIII.

TRANSFER OF LANDS, ETC.

30. Notice of transfer of title to lands, etc., to be given to Collector.
Notice when to be given.
Transferee by death to give notice within one year.

SECTIONS.

31. Form of notice.
Accompaniments.
32. Penalty for neglect to give notice.
33. Person transferring title and omitting to give notice to continue liable for revenue.
34. Proceeding in case of dispute as to entry or transfer.
35. Registration or transfer not to affect right of Government.

PART IX.

PROCEDURE.

36. Law applied to summonses, etc.

PART X.

LEVY OF HOUSE-RENT, FEES, PENALTIES, ETC.

37. Dues leviable as revenue-demands.
38. Power to Collector of Bombay to assist other Collectors in realization of dues.

PART XI.

MISCELLANEOUS.

39. Collector to keep registers and rent-rolls.
40. Maps, land-registers and records where to be kept; to be open to inspection.
Extracts and copies to be given.
41. Power to frame and vary rules for guidance of Collector, etc., and for matters not provided for.

SCHEDULE A.—TABLE OF FEES.

SCHEDULE B.—FORM OF NOTICE OF TRANSFER OTHERWISE THAN BY INSTRUMENT.

SCHEDULE C.—FORM OF NOTICE OF TRANSFER BY INSTRUMENT.

BOMBAY ACT No. II OF 1876.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 26th October, 1876.*)

An Act to amend the law relating to the Land-revenue-administration of the City of Bombay.

Preamble.

WHEREAS it is expedient to amend the law relating to the assessment and collection of the land-revenue, to provide against encroachments upon public

property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue-administration in the City of Bombay; It is enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the Bombay City Land-revenue Act, 1876. It extends only to the City of Bombay. Short title. Extent.

2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed. Regulation XIX of 1827 repealed.

All references made in any Act or Regulation to any part of the said Regulation XIX of 1827 hereby repealed shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1) [*Definition of "Collector".*] *Repealed by Bom. Act III of 1886.*

(2) the words "land-revenue" signify any sum of money legally claimable by Government from any person on account of any land, or interest in, or right exercisable over, land held by, or vested in, him, under whatever designation such sum may be payable;

(3) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay City-survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act;

(4) the words "superior-holder" signify the person having the highest title under Government to the land in respect of which land-revenue is payable.

PART II.

THE COLLECTOR OF BOMBAY AND HIS SUBORDINATES.

Chief control in revenue matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Collector of Bombay subject to the Governor in Council.

Appointment and duties of Collector of Bombay.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council.

His assistants and establishment how appointed;

6. The Collector shall have as many assistants and such other establishment subordinate to him as the Governor in Council, under the general control of the Governor General [a] of India [a] in Council, may from time to time sanction, and their appointment shall be made in such manner as the Governor in Council may direct.

their duties,

The duties of the said assistants and other subordinates of the Collector shall be such as the Collector, subject to the orders of Government, may from time to time prescribe.

and powers.

Subject to the previous sanction of Government, the Collector may delegate any of his powers under this Act, or under any law which the Governor in Council is able to repeal or alter, to any of his assistants or other subordinates, and may at any time cancel such delegation.

Punishment for misconduct.

7. The Collector shall have power, subject to such rules as may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his assistants or other subordinates.

PART III.

ASSESSMENT AND COLLECTION OF LAND-REVENUE.

Collector to fix and levy land-revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land-revenue.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.

When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment

[a-a] These words were substituted for the original words Act XVI of 1895.

having been established and preserved, the assessment shall not exceed such specific limit.

Settlement of assessment with whom to be made.

9. The settlement of the assessment of each portion of land to the land-revenue shall be made with the superior holder of the same.

If the said superior holder be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the superior holder of the land, the settlement may be made with the person actually in possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land.

Any payment made by the person in possession in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

Liability for land-revenue.

10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land-revenue due upon the holding.

Claims of Government to have precedence.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution, attachment or otherwise howsoever, against any land, or the superior holder thereof.

Collector to direct to whom and when and where revenue to be paid.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all superior holders of land paying revenue, or, in their absence, persons in possession, regulating the persons, places and times to whom and within which the revenue payable in respect of any land shall be paid.

On default in payment, defaulter's property may be attached and sold.

13. If any land-revenue is not paid at, or within, the time when it becomes payable, and the superior holder or person in possession, as the case may be, shall, for the space of twenty days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due, or of any other property, moveable or immoveable, of the defaulter.

Sales how held.

Such sales shall be by public auction, and shall not take place until at least fifteen days after notice thereof shall have been published in the Bombay Government Gazette.

Defaulters may be arrested and confined.

If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the civil jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt:

Provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

Collector's decision to be acted on in first instance; but may be stayed on security being furnished.

14. The Collector's decision upon any question arising out of the provisions of sections 8 to 13 [a] shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector that he will, within thirty days from the date when such decision was made known to him, institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded.

Compulsory process to cease on payment under protest, or on instituting suit and furnishing security.

15. All compulsory process against a defaulter shall cease on his paying or tendering the amount demanded of him under protest to the officer executing such process; or

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction, nor remove nor transfer any of his property therein, without providing to the satisfaction of the Collector or of the Revenue Judge for the execution of the decree.

Fees in respect of warrant for attachment and sale of defaulter's property. Additional fee.

16. Fees shall be payable according to the table in the Schedule A [a] on all warrants issued under the provisions of section 13 [a] for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons.

[a] Words repealed by Bom. Act III of 1886 are omitted.

PART IV.

THE REVENUE JUDGE.

17. The Senior Magistrate of Police shall be Revenue Judge. Revenue Judge.

The Revenue Judge shall decide all suits brought before him against the Collector, or any person on his establishment, on account of land-revenue, or of acts done in their official capacities by the Collector, or any of his assistants or other subordinates. Duties and powers.

18. All such suits shall be commenced and the trial thereof shall be conducted according to the provisions of the general law of civil procedure for the time being in force in a District Court. Suits before Revenue Judge how conducted.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its appellate side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a District Court in original suits tried by it. Appeals how and to whom to lie.

The decree in any such suit, whether it be that of the Revenue Judge or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector. Decrees how executed.

If it be against the plaintiff, it may be enforced by the Collector under section 13 [a] as an established revenue-demand:

Provided, however, that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in section 15 [a] if the appeal be brought by him.

PART V.

THE BOMBAY CITY-SURVEY AND BOUNDARY-MARKS.

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "The Bombay City-survey;" and the demarcation of lands then made, and all the records of the said survey, shall be taken as *primâ facie* evidence for all proceedings under and for all the purposes of this Act: Bombay City-survey recognized.

Provided that the Collector may, on the application of the parties interested in such lands, and shall, in pursuance of a decree or order of a competent

[a] Words repealed by Bom. Act III of 1886 are omitted.

Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

Responsibility for maintenance and repair of boundary-marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey-boundary-marks of his holding, and for any expenses, not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or subordinates may enter upon lands.

21. It shall be lawful for the Collector, or for any of his assistants or other subordinates in that behalf duly authorized by writing under the hand of the said Collector, to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

Collector may require superior holders to renew or repair survey-marks. Requisition how made.

22. In the event of any survey-boundary-mark being destroyed, defaced, injured or removed, it shall be lawful for the Collector to cause to be served on the superior holder, or in his absence the person in possession of any land of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew or repair the said mark, at his own expense, within fifteen days from the date of the service of such requisition.

On default, Collector or assistants may enter and renew or repair.

Charge for renewal or repair.

23. If the said survey-boundary-mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector or any of his assistants or other subordinates, or other person duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed or repaired it shall be lawful for the Collector to charge each superior holder or person in possession, the boundary of whose land is designated by any such mark, such sum, not exceeding rupees ten in the whole, as he may deem fit.

PART VI.

Government Lands and Foreshore.

Rights of Government to lands and foreshore.

24. All unoccupied lands within the city of Bombay, and every unoccupied portion of the foreshore below high-water mark, shall be deemed, and are hereby declared to be, the property of Government, subject always to the rights of way and all other rights of the public legally subsisting.

Such lands and foreshore how disposed of.

25. It shall be lawful for the Collector, with the sanction of Government, to dispose of any Government lands or foreshore, in such manner and subject to such conditions as he may deem fit.

PART VII.

ENCROACHMENTS.

26. In the event of any encroachment being made after the passing of this Act on any Government lands or foreshore, it shall be lawful for the Collector or his assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment.

Power to abate encroachments on Government land or foreshore;

But it shall be competent to the Collector, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land-revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person.

or to charge for and assess land, and then enter it in name of encroacher.

27. For the purposes of the preceding section, the value of land that has been encroached upon shall be fixed by the Collector according to the market-value of similar land in the same neighbourhood at the time of such valuation.

Value and land-revenue how calculated.

And the annual revenue of any such land shall be assessed at the same rate as the land-revenue of similar land in the vicinity.

28. In the case of any encroachment made within twenty years before the passing of this Act, the Collector may, with the sanction of Government, charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land-revenue thereon, and recover arrears of land-revenue at the same rate from the date when the encroachment was made.

Encroachments made before passing of Act how dealt with.

29. For the purposes of the last preceding section, the amount by which any holding shall have been shown by the Bombay City-survey to exceed the area of such holding as entered in the Collector's previous records shall *primâ facie* be held to be an encroachment;

Encroachments before passing of Act defined.

and the value and land-revenue payable in respect of the same shall be calculated according to the market-value of similar land in the neighbourhood, and the land-revenue chargeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed.

Value and land-revenue payable in respect thereof how calculated.

In case there has been no such holding, the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

PART VIII.

TRANSFER OF LANDS, ETC.

Notice of transfer of title to lands, etc., to be given to Collector.

30. Whenever the title to any land, house or other immoveable property, subject to the payment of land-revenue to Government, shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector;

Notice when to be given.

such notice shall be given within twenty days after execution of the instrument of transfer or assignment, or after its registration, if it be registered, or after the transfer or assignment is effected, if no instrument is executed.

Transferee by death to give notice within one year.

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death.

Form of notice.

31. The notice shall be in the form either of Schedule B or Schedule C [a], as the case may be, and shall state clearly all the particulars required by the said form.

Accompaniments.

It shall be accompanied, whenever the Collector shall deem fit so to require, by the instrument of transfer, if any, and by a certificate that public notice has been given of the transfer or assignment by beat of bataki.

Penalty for neglect to give notice.

32. Every person neglecting to give the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding ten rupees in case of holdings paying less than one rupee as land-revenue, and in no other case exceeding rupees one hundred.

Person transferring title and omitting to give notice to continue liable for revenue.

33. Every person transferring the title to any land, house or other immoveable property subject to the payment of land-revenue to Government, without giving the notice required by sections 30 and 31 [a], shall continue liable to Government for the payment of all land-revenue accruing due in respect thereof, until he shall have given such notice or until the requisite transfer shall have been effected in the Collector's records.

But nothing contained in this section shall be held to diminish the liability of the land, house or other immoveable property to attachment or sale under the provisions of section 13 [a].

Proceeding in case of dispute as to entry or transfer.

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector, of or relating to any land, house or other immoveable property subject to the

[a] Words repealed by Bom. Act III of 1886 are omitted.

payment of land-revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as he shall consider necessary, and shall thereupon decide summarily what entry shall be made in his records in respect of such land, house or other immoveable property.

If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

Registration or transfer not to affect right of Government.

35. The registration or transfer of any title in the Collector's records shall not be deemed to operate so as in any way to affect any right, title or interest of Government in the land, house or other immoveable property in respect of which any such transfer is made or registered.

PART IX.

PROCEDURE.

Law applied to summonses, etc.

XIV of 1882.

36. The provisions of the Code of Civil Procedure [a] in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

PART X.

LEVY OF HOUSE-RENT, FEES, PENALTIES, ETC.

Dues leviable as revenue-demands.

37. All arrears of rent payable by any person in respect of the occupation of any house the property of Government, and all fees, fines and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration,

[a] The reference to Act VIII of 1859 is altered in accordance with Act XIV of 1882, s. 3. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

removal, renewal or repair of survey-boundary-marks, shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

Power to Collector of Bombay to assist other Collectors in realization of dues.

38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector or Assistant or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-revenue, from any person residing or owning property in the city of Bombay, by whom the same is so certified to be due.

PART XI.

MISCELLANEOUS.

Collector to keep registers and rent-rolls.

39. It shall be the duty of the Collector to prepare and keep in such form as Government may from time to time sanction a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Maps, land-registers and records where to be kept; to be open to inspection.

Extracts and copies to be given.

40. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land-registers, and other records of the Bombay City survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reasonable hours; and certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame and vary rules for guidance of Collector, etc., and for matters not provided for.

41. It shall be lawful for the Governor in Council from time to time to frame, and from time to time to vary or repeal, rules not inconsistent with the provisions of this Act for the guidance of the Collector and his assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

Any of such rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

SCHEDULE A.

TABLE OF FEES PAYABLE UNDER THE PROVISIONS OF SECTION 16 OF THIS ACT.

Sum distrained for.	Fee.	
	Rs.	As.
Not exceeding rupees 5	0	8
Over rupees 5 and not exceeding rupees 10	1	0
„ 10 „ „ 15	1	8
„ 15 „ „ 20	2	0
„ 20 „ „ 25	2	8
„ 25 „ „ 30	3	0
„ 30 „ „ 35	3	8
„ 35 „ „ 40	4	0
„ 40 „ „ 45	4	8
„ 45 „ „ 50	5	0
„ 50 „ „ 60	6	0
„ 60 „ „ 80	7	8
„ 80 „ „ 100	9	0
Upwards of rupees 100	10	0

SCHEDULE B.

FORM OF NOTICE OF TRANSFER TO BE GIVEN UNDER SECTION 30 OF THIS ACT, WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property:—

Date of Notice.	Name in which the property is at present entered in the Collector's records.	To whose name it is to be transferred.	DESCRIPTION OF THE PROPERTY.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	REMARKS.

(*Signed*) *A. B.*

SCHEDULE C.

FORM OF NOTICE OF TRANSFER TO BE GIVEN UNDER SECTION 30 OF THIS ACT, WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property:—

Date of notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	Description of the Property.						If instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.		

(*Signed*) *A. B.*

THE MÁMLATDÁRS' COURTS ACT, 1876.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
   Extent.
2. Repeal of Acts.
3. Interpretation-clause.
4. Powers of Mámlatdárs' Courts.
   Suits to be filed within six months.
   Cause of action.
5. Suits commenced by plaint.
   Contents.
6. Plaint to be subscribed and verified.
7. Endorsement by Mámlatdár.
   Procedure in case plaintiff cannot write.
8. Amendment of plaint.
9. Rejection of plaint.
10. Return of plaint.
11. Procedure when plaint admissible.
12. Attendance of witnesses.
13. If plaintiff makes default, plaint to be rejected with costs.
    If defendant does not appear, case to be heard *ex parte*.
    But case may be re-heard on sufficient cause being shown.
14. When proceedings may be adjourned.
15. Points to be decided by Mámlatdár at hearing.
    Mámlatdár's award if in favour of plaintiff;
    in defendant's favour.
    Costs to be awarded.
16. Mámlatdár's order to be endorsed on plaint.
17. Mámlatdár's award how executed.
18. Possession to be given without prejudice to rights of parties.
19. Bar of appeal.
20. Punishment for false verification of plaint.
21. Limitation of suits.

SCHEDULE A.—FORM OF NOTICE TO BE ISSUED TO THE DEFENDA UNDER SECTION 11.

SCHEDULE B.—FORM OF NOTICE TO BE ISSUED UNDER SECTION 13.

SCHEDULE C.—FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 17.

BOMBAY ACT No. III OF 1876.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 22nd February, 1877.*)

An Act to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts.

WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Mámlatdárs' Courts Act, 1876. Short title.

It extends to the whole of the Presidency of Bombay, except the City of Bombay and Aden. Extent.

2. Clause 2, section 1, of Act XVI of 1838 [a], and Bombay Act V of 1864, are repealed. Repeal of Acts.

All references made in any Act passed by the Governor of Bombay in Council or in any Act of the Governor General in Council passed prior to the coming into operation of the Indian Councils' Act, 1861 [b], to the said portion of Act XVI of 1838 [a], or to Bombay Act V of 1864, shall be read as if made to the corresponding portion of this Act.

24 & 25 Vict., c. 67.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(*1*) the word "Mámlatdár" shall include any Revenue-officer ordinarily exercising the powers of a Mámlatdár and any other person who may be specially authorized by the Governor in Council to exercise the powers of a Mámlatdár under this Act [c]:

(*2*) the words "plaintiff" and "defendant" shall include a pleader duly appointed to act on behalf of either, and the recognized agent of a plaintiff or defendant as defined in section 37 of the Code of Civil Procedure [d].

XIV of 1882.

4. Every Mámlatdár shall preside over a Court, which shall be called a Mámlatdár's Court, and which shall have power within such territorial limits as may from time to time be fixed by the Governor in Council to give Powers of Mámlatdárs' Courts.

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[a] Printed in Vol. I of this Code, p. 54.
[b] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.
[c] Portion repealed by Act XVI of 1895 is omitted.
[d] The reference to s. 17 of Act VIII of 1859 is altered in accordance with Act XIV of 1882, s. 3. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

immediate possession of lands, premises, trees, crops or fisheries, or of any profits of the same, or to restore the use of water from wells, tanks, canals or water-courses to any person who shall have been dispossessed or deprived thereof otherwise than by due course of law, or who shall have become entitled to the possession or restoration thereof by reason of the determination of any tenancy, or other right of any other person in respect thereof.

The said Court shall also have power within the said limits, when any person is disturbed or obstructed, or when an attempt has been made to disturb or obstruct any person, in the possession of any lands, premises, crops, trees or fisheries, or in the use of water from any well, tank, canal or water-course, or of the use of roads or customary ways to fields, to issue an injunction to the person causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain from causing or attempting to cause any such further disturbance or obstruction.

Suits to be filed within six months.

But no suit shall be entertained by a Mámlatdár's Court unless it be brought within six months from the date on which the cause of action arose.

Cause of action.

The cause of action shall be deemed to have arisen on the date on which the dispossession, deprivation, determination of tenancy or other right occurred; or on which the disturbance or obstruction, or the attempted disturbance or obstruction, first commenced.

Illustration I.

A lets *B* his field to cultivate for a specific period of one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mámlatdár's Court at any time within six months from the date of the expiration of the said period.

Illustration II.

B is a yearly tenant of *A*, who gives him notice to vacate, as he is bound to do under Bombay Act I of 1865, section 43, clause 2 [a], at least six months before the commencement of the next cultivating season. At the commencement of the next cultivating season *B* refuses to vacate. *A* can sue *B* in the Mámlatdár's Court at any time within six months from the commencement of the next cultivating season.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which *B* continues to take water from the well or water-course without *A*'s consent. *A* may sue *B* in the Mámlatdár's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water.

[a] Bom. Act I of 1865, s. 43, cl. 2, is repealed (locally) by Bom. Act V of 1879, printed *infra*.

Illustration IV.

A and *B* hold lands adjacent to a पाट, or फांस, or similar artificial water-course, which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mámlatdár's Court at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

Suits commenced by plaint. Contents.

5. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mámlatdár in open Court by the plaintiff, and which shall contain the following particulars :—

(1) the name, religion, caste, profession and place of abode of the plaintiff :

(2) the name, religion, caste, profession and place of abode of the defendant :

(3) the nature and situation of the property of which, or of the profits of which, possession or use is sought, or the nature of the injunction to be granted, as the case may be :

(4) the date on which the cause of action arose :

(5) the circumstances out of which the cause of action arose :

(6) a list of the plaintiff's documents, if any, or of his witnesses, and what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be appointed according to section 11 of this Act.

Plaint to be subscribed and verified.

6. When the plaint is presented, the Mámlatdár shall require the plaintiff to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect:—

"I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief."

Endorsement by Mámlatdár. Procedure in case plaintiff cannot write.

7. The Mámlatdár shall endorse the plaint to the effect that it was duly subscribed and verified. In case the plaintiff cannot write, the verification may be written for him in open Court, and the Mámlatdár shall, in such case, record that the verification was made in his presence at the request of the plaintiff, who affixed his mark to his name in token of the authenticity of the verification.

Amendment of plaint.

8. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those specified, whether relevant to the plaint or not, or if the statement of particulars be unnecessarily prolix, the Mámlatdár may order the plaint to be amended within three days from the date of such order.

Rejection of plaint.

9. If the plaintiff decline to subscribe or verify the plaint as hereinbefore required, or to amend the same as directed by the Mámlatdár, or if it appear upon the face of the plaint, or after questioning the plaintiff, that the cause of action arose more than six months before the plaint was presented, the Mámlatdár shall reject the plaint.

Return of plaint.

10. If it appear to the Mámlatdár that the subject of the plaint is not within his jurisdiction, he shall return the plaint in order to its being presented in the proper Court.

Procedure when plaint admissible.

11. If a plaint is admissible, the Mámlatdár shall receive and file it. He shall then appoint a convenient day and place for the trial of the case. The plaintiff shall be required to appear with his documents and witnesses on the day and at the place appointed, of which ten days' notice in the form of Schedule A shall be issued at the plaintiff's expense to the defendant.

The date to be fixed for the trial shall not be earlier, except by consent of both parties, than ten days, nor, except for unavoidable reasons, later than fifteen days, from the day on which the notice is issued.

Attendance of witnesses.

12. If either party require his witnesses to be summoned to appear on the day and at the place appointed, the Mámlatdár shall issue summonses for that purpose. The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be made by the High Court in regard to the payment of witnesses.

If plaintiff makes default, plaint to be rejected with costs.

13. If the plaintiff fails to attend with his proofs, or omits to adopt measures to procure the attendance of his witnesses on the day and at the place appointed, the Mámlatdár shall reject the plaint with costs.

If defendant does not appear, case to be heard *ex parte.*

If the defendant fails to attend, and the Mámlatdár is satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear the plaint *ex parte :*

But case may be re-heard on sufficient cause being shown.

Provided that, if either party satisfy the Mámlatdár at any time within fifteen days from the date of the plaint being thus rejected, or of such *ex parte* decision, that he was prevented by some unavoidable circumstance from being present, or from procuring the attendance of his witnesses, it shall be lawful for the Mámlatdár to re-hear the case, a notice in the form of Schedule B being issued, at the applicant's expense, to the opposite party.

When proceedings may be adjourned.

14. If any witnesses who have been duly summoned fail to attend on the day and at the place appointed, the Mámlatdár may, if he consider there is sufficient reason after taking the evidence of those that are present, adjourn

the hearing of the suit from time to time till the attendance of the witnesses can be enforced.

The provisions of section 13 shall apply on any date to which the proceedings may be adjourned under this section, as if such date were the day originally fixed for the hearing.

15. On the day appointed the Mámlatdár shall proceed to hear all the evidence that is then and there before him, and to try the following issues, namely :— Points to be decided by Mámlatdár at hearing.

(*a*) if the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use :—

(1) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed up to any time within six months before the suit was filed ;

(2) whether the defendant is in possession at the time of the suit, and if so whether he obtained possession otherwise than by due course of law :

(*b*) if the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof :—

(1) whether the defendant is in possession of the property, or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims ;

(2) whether such right has determined at any time within six months before the suit was filed :

(*c*) if the plaintiff avers that he is still in possession of the property, or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use :—

(1) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed :

(2) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment :

(3) whether such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before the suit was filed.

If the Mámlatdár's finding upon these issues be in favour of the plaintiff, he shall make such order as the circumstances of the case shall appear to him Mámlatdár's award, if in favour of plaintiff.

to require : provided that the same be not in excess of the powers vested in him by section 4 [a].

In defendant's favour. Costs to be awarded.

If his finding be in favour of the defendant, he shall reject the plaint.

In either case the costs of the suit, including the costs of execution, shall follow the decree.

Mámlatdár's order to be endorsed on plaint.

16. Every order of the Mámlatdár, whether for rejecting or returning a plaint, or whether for allowing or disallowing the claim, shall be endorsed by the Mámlatdár on the plaint, who shall also place on record his reasons for the same.

Mámlatdár's award how executed.

17. If the Mámlatdár's decision be for awarding possession or restoring a use, he shall issue an order to the village-officers to give effect thereto.

If it be for granting an injunction, he shall cause the same to be prepared in the form of Schedule C, and shall deliver or tender the same then and there to the defendant, if he be present, and if he be not present shall send it to the village-officers to be served upon him.

When the Mámlatdár awards costs, such costs, together with the costs of execution, shall be recovered from the party in person, and in the event of non-payment by the attachment and sale of his property.

Possession to be given without prejudice to rights of parties.

18. The party to whom the Mámlatdár shall give immediate possession, or restore a use, or in whose favour an injunction has been granted, shall continue in possession or use until ousted by a decree or order of a Civil Court:

Provided that nothing in this section shall prevent the party against whom the Mámlatdár's decision is passed from recovering by a suit in the Civil Court mesne profits for the time he may be kept out of possession of any property, or out of enjoyment of any use :

Provided further that in any subsequent suit or other proceeding in the ordinary Civil Courts between the same parties, or other persons claiming under them, the Mámlatdár's decision respecting the possession of any property, or the enjoyment of any use, shall not be held to be conclusive.

Bar of appeal.

19. There shall be no appeal from any order passed by a Mámlatdár under this Act.

Punishment for false verification of plaint.

20. If any plaint verified under this Act shall contain any statement which the plaintiff shall know or believe to be false, or shall not know or believe to be true, such plaintiff shall be subject to punishment according to the provision of any law for the time being in force for the punishment of persons intentionally giving or fabricating false evidence.

[a] Words repealed by Bom. Act III of 1886 are omitted

(*Sec. 21.—Schedule A.—Form of Notice to be issued to the Defendant under section 11.*)

21. Any suit instituted by any person bound by any order made under this Act, or by any one claiming under such person, shall be dismissed, although limitation has not been set up as a defence, unless it has been instituted within three years from the date of the final order in the case. Limitation of suits.

SCHEDULE A.

Form of Notice to be issued to the Defendant under Section 11.

No. of Suit.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

To the defendant—(*name, religion, caste, profession and address*).

Whereas (*here enter the name, religion, caste, profession and address of the plaintiff*) has instituted a suit in this Court against you (*here state the particulars of the plaint*), you are hereby summoned to appear in this Court at the village of in person or by duly authorized agent on the day of at o'clock, to answer the abovenamed plaintiff; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above appointed; and you are hereby required to take notice that, in default of such appearance at the before-mentioned time and place, the suit will be heard and determined in the absence of yourself or your agent.

(*Signed*)

Mámlatdár.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within-mentioned date.

SCHEDULE B.

Form of Notice to be issued under Section 13.

No. of Suit.

In the Court of the Mámlatdár of ,

Plaintiff.

Defendant.

To plaintiff (*or* defendant, *as the case may be*), inhabitant of .

Whereas, in the suit above specified, instituted in this Court by the said plaintiff , the Court ordered on the day of last that , and the said plaintiff (*or* defendant, *as the case may be*) has, under date the day of , applied to this Court to re-hear the case, and the Court has granted his said application.

This is to give you notice that the said suit will be re-heard and determined on the day of at o'clock, at the village of , at which time and place you must take measures to produce your documents and procure the attendance of your witnesses, and you are hereby required to take notice that, in default of your appearance personally or by agent at the abovementioned time and place, the suit will be re-heard and determined in your absence.

Dated this day of 187 .

(*Signed*)

Mámlatdár.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within-mentioned date.

SCHEDULE C.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 17.

Seal of the Court.

No. OF SUIT.

In the Court of the Mámlatdár of

Plaintiff.
Defendant.

To defendant.

WHEREAS in the suit above specified the Court has this day found that you are disturbing or obstructing (*or* that you did attempt on or about the . to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (*or* enjoyment of the under-mentioned use of water *or* use of roads, *or otherwise as the case may be*).

You are hereby prohibited from making any further attempt to disturb or obstruct the said plaintiff in his possession of the said property (*or* enjoyment of the said use) otherwise than in execution of the decree of a Civil Court.

Dated this day of 187 .

(*Signed*)
Mámlatdár.

THE BOMBAY VACCINATION ACT, 1877.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Interpretation-clause.

SECTIONS.

ESTABLISHMENT.

3. Vaccination-districts.
Appointment of public vaccinators.
Public vaccine-stations.
Notification of districts and stations.
4. Public vaccinator to live within district.
5. Qualifications of public vaccinator.
6. Superintendent of Vaccination.
Assistant Superintendents.

VACCINATION.

7. Parent or guardian of children born in Bombay, and of unprotected children brought to reside in Bombay, or living in Bombay at date of Act coming into force, must procure vaccination;
Public vaccinator bound to vaccinate all children brought to him.
8. Inspection.
Re-vaccination.
9. If child be unfit for vaccination, certificate in Form A to be given; which shall remain in force for two months, but shall be renewable.
When successive postponement certificates to be granted.
10. Provision for giving certificates of insusceptibility to successful vaccination.
11. Provision for giving certificates of successful vaccination.
12. Vaccination to be ordinarily with animal-lymph,
but may, if Government so directs, be performed with lymph taken from human being.
13. No fee for vaccination at public vaccine-station, or for certificates.
Proviso.

REGISTRATION.

14. Registrar of Births to give notice of requirement of vaccination.
15. Duplicates of all certificates to be transmitted to Registrar.
16. Registrar to keep vaccination notice and certificate book;
17. and also duplicate register of births with entries concerning vaccination;
18. and also register of postponed vaccinations.
19. Transmission of returns to Superintendent.

PROSECUTIONS AND OFFENCES.

20. Penalty for inoculating;
and for entering City of Bombay after inoculation.
21. Magistrate may make order for vaccination of unprotected child under fourteen years.
Penalty for disobedience of such order.
Proviso for costs to person improperly summoned.
22. Penalty for not producing child.

PROSECUTIONS AND OFFENCES.

SECTIONS.

23. Penalty for neglect to take child to be vaccinated, etc.
24. Penalty for making or signing false certificate.
25. Penalty for accepting illegal fee or remuneration.
26. Cognizance of offences.
27. Prosecution for neglect.
28. Recovery of fines.

MISCELLANEOUS.

29. Books and forms.
30. Annual return of number of children vaccinated, etc.
31. Power of Sanitary Commissioner to make rules.
SCHEDULE A.
SCHEDULE B.
SCHEDULE C.
SCHEDULE D.
SCHEDULE E.

BOMBAY ACT No. I OF 1877.

(*The assent of the Governor General of India to this Act was ... by the Governor of Bombay on the 17th May, 1877.*)

An Act to prohibit the practice of inoculation, and to make the vaccination of children in the City of Bombay compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the City of Bombay compulsory; It is enacted as follows:— Preamble.

PRELIMINARY.

1. This Act may be cited as the Bombay Vaccination Act, 1877. Short title.

It extends only to the City of Bombay. Local extent.

It shall come into force on such day [a] as the Governor in Council directs by notification in the Bombay Government Gazette, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(1) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child:

[a] The 1st September, 1877—see Bombay Government Gazette, 1877, Pt. I, p. 53.

(2) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf:

(3) "public vaccinator" means any vaccinator appointed under this Act or any deputy duly authorized to act for such public vaccinator:

(4) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act:

(5) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination:

(6) "animal-lymph" means vaccine taken from the calf.

ESTABLISHMENT.

Vaccination-districts.

3. For the purposes [a] of this Act [a] the Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, shall divide the City of Bombay into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "vaccination-district."

Appointment of public vaccinators.

Public vaccine-stations.

The Sanitary Commissioner or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "public vaccine-stations." Every such public vaccinator shall be removeable from office by the Sanitary Commissioner or other officer aforesaid.

Notification of districts and stations.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31 [b].

Public vaccinator to live within district.

4. Every public vaccinator, unless specially permitted by the Sanitary Commissioner or other officer aforesaid to reside elsewhere, shall reside within

[a-a] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

[b] Words repealed by Bom. Act III of 1886 are omitted.

the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the district of ", to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district.

Qualifications of public vaccinator.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner or other officer aforesaid.

Superintendent of vaccination.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Sanitary Commissioner or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

The Superintendent shall have one or more assistants as Government may from time to time direct.

VACCINATION.

Parent or guardian of children born in Bombay, and of unprotected children brought to reside in Bombay,

7. The parent or guardian of every child born in the City of Bombay shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the City of Bombay, shall, within three months after such child's arrival in the City, or, if the child be at the time of its arrival less than three months old, within six months after its birth [a],

must procure vaccination.

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public vaccinator bound to vaccinate all children brought to him.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on [b] any earlier or later day [b], if the public vaccinator

[a] Words repealed by Act XVI of 1895 are omitted.

[b-b] These words were substituted for the original words by Bom. Act III of 1882, s. 2.

or medical practitioner so desires, the parent or guardian shall again take the child, or cause it be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child be unfit for vaccination, certificate in form A to be given;

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A [a], or to the like effect, that the child is then in a state unfit for vaccination.

which shall remain in force for two months, but shall be renewable.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C [a], according to the provisions of section 11 [a] if warranted by the result.

When successive postponement certificates to be granted.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Provision for giving certificates of insusceptibility to successful vaccination.

10. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate, under his hand, according to the form of Schedule B [a], or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C [a], or to the like effect, certifying that the said child has been successfully vaccinated.

[a] Words repealed by Bom. Act III of 1886 are omitted.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph; Vaccination to be ordinarily with animal-lymph,

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct, by notification in the Bombay Government Gazette,— but may, if Government so directs, be performed with lymph taken from human being.

(*a*) that during such period as he may deem fit to appoint the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(*b*) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 [a] for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station: No fee for vaccination at public vaccine-station, or for certificates.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station. Proviso.

REGISTRATION.

[I of **14.** On the registration of the birth of any child under the provisions of section 445 of the City of Bombay Municipal Act, 1888, [b] or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D [a], or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act. Registrar of Births to give notice of requirement of vaccination.

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C [a] shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or, if that be not known to him, or if the child was born out of the City of Bombay, or his birth has not been registered in the said City, to the Registrar Duplicates of all certificates to be transmitted to Registrar.

[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] The reference to s. 256 of Bom. Act III of 1872 is altered in accordance with Bom Act III of 1888, s. 2, printed in Vol. III of this Code.

of the district within which the child was vaccinated or presented for vaccination.

Registrar to keep vaccination-notice and certificate-book;

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 [a], in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also duplicate-register of births with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the City of Bombay Municipal Act, 1888, [b] or of any other law for the time being in force, with such additional columns as shall from time to time be prescibed by the Sanitary Commissioner or other officer under section 29 [a], in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C [a] received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be. Bom. III of 1888.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of Schedule E [a], in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A [a], together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of vaccination a return, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 [a], of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

PROSECUTIONS AND OFFENCES.

Penalty for inoculating;

20. Whoever produces, or attempts to produce, in any person, by inoculation with variolous matter or by wilful exposure to variolous matter or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

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[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] The reference to Bom. Act III of 1872 is altered in accordance with Bom. Act III of 1888, s. 2, printed in Vol. III of this Code.

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the City of Bombay before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion,

and for entering City of Bombay after inoculation.

shall be punished with imprisonment [a] for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate of Police that he has reason to believe that any child within the City of Bombay, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and, if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

Magistrate may make order for vaccination of unprotected child under fourteen years.

If at the expiration of such time the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated nor to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees:

Penalty for disobedience of such order.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Proviso for costs to person improperly summoned.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code [b], for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

XLV of 1860.

Penalty for not producing child.

23. Whoever, in contravention of this Act,—

(*a*) neglects, without reasonable excuse, to take, or cause a child to be taken, to be vaccinated, or after vaccination to be inspected, or

Penalty for neglect to take child to be vaccinated, etc.

[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(*b*) at any time during the period for which any notification made under section 12[a] is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated, or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs, or makes, or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment [a] for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any public vaccinator accepts or obtains, or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13[a], he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code[b]. XLV of 1860.

Cognizance of offences.

26. All offences under this Act shall be cognizable by a Magistrate of Police, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

Prosecution for neglect.

27. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect; but, if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him except in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

28. [a]All fines imposed under this Act [a] shall be recoverable [b] in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts. [b] Recovery of fines.

MISCELLANEOUS.

29. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act. Books and forms.

30. It shall be the duty of the executive officer of health for the City of Bombay, appointed under the provisions of the City of Bombay Municipal Act, 1888 [c], or of the officer for the time being officiating in his appointment, to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year. Annual return of number of children vaccinated, etc.

Bom. III of 1888.

31. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, may, with the sanction of the Governor in Council from time to time make rules or issue orders consistent with this Act— Power of Sanitary Commissioner to make rules.

(*a*) providing for the appointment of deputies of public vaccinators, when necessary;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the Bombay Government Gazette.

[*a*] Portion repealed by Bom. Act. III of 1886 is omitted.

[b-b] These words were substituted for the original words and figures by Act XVI of 1895.

[c] The reference to Bom. Act III of 1872 is altered in accordance with Bom. Act III of 1888, s. 2, printed in Vol. III of this Code.

SCHEDULE A.

(*See section 9.*)

I, the undersigned, hereby certify that, in my opinion, , the child of , resident at in Bombay, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE B.

(*See section 10.*)

I, the undersigned, hereby certify that I have three times unsuccesfully vaccinated , the child of , residing at , in Bombay (*or* that the child has already had small-pox, *as the case may be*), and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE C.

(*See section 11.*)

I, the undersigned, hereby certify that , the child of , age , resident at , in Bombay, has been successfully vaccinated by me.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE D.

(*See section 14.*)

To

(*Here insert the name of the parent, guardian or other person who gives information of the child's birth.*)

Take notice that the child of (*here enter the mother's name*), whose birth has this day been registered, must be vaccinated under the provisions of the Bombay Vaccination Act, 1877, within six months from the date of its birth, under a penalty of [a] fifty rupees [a].

[a-a] These words were substituted for the original words by Act XVI of 1895.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows:—

(*Here insert the days and the hours when the public vaccinator is in attendance.*)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the City on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of , 18 .

(*Registrar of Births.*)

SCHEDULE E.

(*See section 18.*)

Register of postponed Vaccinations for the District of in Bombay.

Consecutive number.	Name of child.	Birth.		Date of certificate of postponement.		Signature of Registrar.
		Year.	No. of entry in register.			
				1868		
1	Vinayak Pandurang ...	1868	12	May	10	H. O.

BOMBAY ACT No. II OF 1878.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 23rd February, 1878.*)

An Act to amend Bombay Act II of 1868.

[NOTE.—The amendments made by the Act are incorporated in Bombay Act II of 1868 as printed on pp. 127 *et seq. supra.*]

THE BOMBAY ÁBKÁRÍ ACT, 1878.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Extent.
   Commencement.
2. [*Repealed.*]
3. Interpretation-clause.

II.—ESTABLISHMENT AND CONTROL.

4. Collectors charged with carrying out Act.
5. Special Collectors of Ábkárí-revenue may be appointed.
6. Subordinate officers.
7. Punishment of subordinate officers for misconduct.
8. Delegation of powers by Commissioners to Collectors.

III.—IMPORT, EXPORT AND TRANSPORT.

9. Import of liquor or intoxicating drug.
10. Export of liquor or intoxicating drug.
11. Sections 9 and 10 not to affect certain laws and powers of Governor General in Council.
12. Transport of liquor and intoxicating drugs.
13. Permits for transport.

IV.—MANUFACTURE.

14. Manufacture of liquor or intoxicating drug prohibited except under provisions of Act.
15. Establishment of public distilleries.

V.—SALE.

16. Sale of liquor and intoxicating drugs prohibited without license or pass.
17. Limit of retail-sale.
18. Sale of toddy.

VA.—SPECIAL PROVISIONS AS TO MHOWRA FLOWERS.

18 A. Special provisions as to Mhowra flowers.

VI.—Duties.

Sections.

19. Duty on liquor.
Rate.
20. Duty on tapping of toddy trees.
21. Duty by whom payable.
22. Owner entitled to assistance in recovering from licensee duty paid by him.
23. Farming of right of drawing toddy within local area.
24. Levy of tax or fee on toddy trees prior to Act legalized.
25. Privilege of drawing toddy from Government trees.
26. Adjustment of duty when joint privileges are conceded.
27. Duty on intoxicating drugs.
28. Duties may be farmed.
29. Farmer may apply to Collector to recover amounts due to him.

VII.—Licenses, etc.

30. Form and conditions of licenses, etc.
31. Counterpart-agreement to be executed by licensees.
32. Power to recall licenses, etc.

VIII.—General Provisions.

33. Certain licensees required to keep measures, etc.
34. Recovery of duties, etc.

IX.—Powers of Ábkárí-officers.

35. Power to Commissioners to frame rules.
36. Powers exerciseable by Ábkárí-officers on information that liquor, etc., is unlawfully manufactured, etc.
37. Power to seize liquor, etc., in open places, and to detain, search and arrest.
38. Searches how made.
39. Officers of certain departments bound to assist.
40. Issue of warrants.
41. Disposal of person arrested or thing seized.
42. Closing of shop for sake of public peace.

X.—Penalties.

43. For illegal import, etc.
44. For neglect to keep measures, etc.
45. For misconduct by licensee, etc.
46. For misconduct by licensed vendor or manufacturer.
47. For illegal possession of liquor, etc.
48. For maliciously giving false information.
94. For vexatious search or arrest.

SECTIONS.

50. For vexatious delay.
51. For conniving at escape of persons arrested, etc.
52. For neglecting to assist an Ábkárí-officer.
53. Presumption as to commission of offence in certain cases.
54. Things liable to confiscation.
55. Order of confiscation by whom to be made.
Redemption may be allowed.

XI.—PROCEDURE.

56. Cognizance of offences.
57. [*Repealed.*]
58. Disposal of things confiscated.
59. Payment of rewards.
60. Appeals.

XII.—MISCELLANEOUS.

61. Saving of certain Acts.
62. Exception of medicated articles.
63. Annual payment to Bombay Municipal Corporation in lieu of money received under Bombay Act IX of 1867.
64—66. [*Repealed.*]
67. Bar of actions.

SCHEDULE. [*Repealed.*]

BOMBAY ACT No. V OF 1878. [a]

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th September, 1878.*)

An Act to consolidate and amend the Ábkárí-law of the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Presidency of Bombay; It is enacted as follows :—

I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Bombay Ábkárí Act, 1878.

Extent.

It extends to the whole of the Presidency of Bombay;

Commencement.

and it shall come into force in any portion of the said Presidency on such date [b] as Government, by notification in the Bombay Government Gazette, directs.

[a] Bom. Act III of 1892 (as to mhowra flowers) is to be construed as part of Bom. Act V of 1878--see s. 1 of the Act of 1892, printed in Vol. III of this Code.

It is provided by s. 6 of the Act of 1892 that nothing in that Act shall be deemed to affect the operation of any law for the time being in force, or of any rule for the time being having the force of law, relating to mhowra flowers as an article of forest-produce.

[b] Bom. Act V of 1878 came into force in the whole of the Presidency of Bombay on the 1st January, 1879--see Notification No. 5756, dated 8th November, 1878, in Bombay Government Gazette, 1878, Part I, p. 708.

2. [*Repeal of enactments.*] *Repealed by Act XVI of 1895.*

3. In this Act, unless there be something repugnant in the subject or context:— Interpretation-clause.

(1) "Ábkárí-revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered, under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs:

(2) "Ábkárí-officer" means a Commissioner, Collector or any officer or other person lawfully appointed, or invested with powers under section 6:

(3) "Commissioner" [a] includes an officer appointed by Government to be a Commissioner for the purposes of this Act: [a]

(4) "Collector" [a] includes [a] any person appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act:

(5) "Magistrate" means, in the City of Bombay, a Presidency Magistrate, and elsewhere, a Magistrate of the first or second class:

(6) "toddy" means juice drawn from a cocoanut, brab, date or any kind of palm-tree, whether in its fermented or unfermented state:

(7) "liquor" includes spirits of wine, spirits, wine, toddy, beer and all liquid consisting of, or containing, alcohol:

(8) "country-liquor" includes all liquor produced or manufactured in India:

(9) "intoxicating drug" includes gánjá, bháng and every preparation and admixture of the same, and every intoxicating drink or substance prepared from hemp, grain or other material not included in the term "liquor;" but does not include opium or any thing included within the meaning of that word as defined in the [b] Opium Act, 1878: [c] I of 1878.

(10) "import" and "export" include respectively the conveying into, or out of, any part of the Presidency of Bombay, from, or to, any other part of India:

(11) "manufacture" includes every process, whether natural or artificial, by which any spirituous, fermented or intoxicating liquor or intoxicating drug is prepared, and also every process for the rectification of liquor:

admixing is a process within the meaning of this definition;

[a-a] These words were substituted for the original words by Bom. Act III of 1886.

[b] The word repealed by Act XVI of 1895 is omitted.

[c] For Act I of 1878 see the revised edition, as modified up to 1st July, 1894, published by the Legislative Department.

(12) "ser" means a weight of eighty tolas.

[a] (13) "Mhowra flower" does not include the berry or seed of the mhowra tree.

II.—Establishment and Control.

Collectors charged with carrying out Act.

4. Subject to the control and direction of the Commissioners and the orders of Government, the Collectors are charged with the collection of the ábkárí-revenue, and with the carrying out of the provisions of this Act.

For the purposes of this Act, the Collector of Bombay shall be subordinate to such Commissioner as Government directs.

Special Collectors of Ábkárí-revenue may be appointed.

5. Government may, by notification in the Bombay Government Gazette, appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of Government, as Government may from time to time direct.

Subordinate officers.

6. To aid the Collectors in carrying out the provisions of this Act, the Commissioners may, subject to such orders as may from time to time be passed by Government in this behalf, appoint such subordinate officers, with such designations, and assign to them respectively such powers and duties under this Act, as they deem fit.

Government, or, subject to such orders as aforesaid, the Commissioners, may invest any Government-officer in any department, either personally or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act as they deem fit, and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office :

Provided that powers under sections 36 and 40, clause (*b*), shall in no case be conferred on any officer of any department who is not superior in rank to a peon or constable, and that any assignment of, or investment with powers or duties made under this section may at any time be cancelled or varied by the authority which made it.

Punishment of subordinate officers for misconduct.

7. Subject to such orders as aforesaid, the Commissioners may at any time after inquiry recorded in writing fine, dismiss, suspend or reduce any subordinate officer appointed, or any officer on whom any additional powers or duties have been conferred or imposed by them under the provisions of the last preceding section, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

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[a] Cl. (13) was added by Bom. Act III of 1892, s. 1A.

8. The powers conferred on the Commissioners by the last two sections may be delegated by them, in whole or in part, to the Collectors, or to any Collector subordinate to them, and any such delegation may be at any time cancelled by the Commissioners. Delegation of powers by Commissioners to Collectors.

III.—IMPORT, EXPORT AND TRANSPORT.

9. No liquor or intoxicating drug shall be imported by land or by sea into any part of the Presidency of Bombay unless— Import of liquor or intoxicating drug.

VIII of 1894. (*a*) it is liable to the payment of duty under the Indian Tariff Act, 1894,[a] or any other law for the time being in force relating to the duties of customs on goods imported into British India, and the duty prescribed by such law has been paid thereon; or

(*b*) such import is permitted under the power next hereinafter conferred.

Subject to the orders of Government the Collector may, from time to time,—

(*c*) permit the import of liquor or intoxicating drugs or of any kind of liquor or intoxicating drugs other than liquor or intoxicating drugs liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

10. No liquor or intoxicating drug shall be exported by land or by sea from any part of the Presidency of Bombay unless— Export of liquor or intoxicating drug.

(*a*) it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation; or

(*b*) such export is permitted under the power next hereinafter conferred.

Subject to the orders of Government the Collector may, from time to time,—

(*c*) permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

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[a] The reference to Act XVI of 1875 is altered in accordance with Act VIII of 1894, s. 2 (3). (For Act VIII of 1894 see the revised edition, as modified up to 28th December, 1894 published by the Legislative Department.)

Sections 9 and 10 not to affect certain laws and powers of Governor General in Council.

11. Provided that nothing in the two last preceding sections shall be deemed to affect any law for the time being in force which prohibits or restricts the importation of any liquor or intoxicating drug into the said Presidency, or which empowers the Governor General in Council to prohibit or restrict such importation, or which empowers the Governor General in Council to exempt any liquor or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force:

Provided further that it shall be lawful for the Governor General in Council or for the Governor of Bombay in Council to exempt any liquor or intoxicating drug from any duty to which the same may be liable under either of the said sections, or under any of the other provisions of this Act.

Transport of liquor and intoxicating drugs.

12. No liquor or intoxicating drug exceeding such quantity as Government may from time to time deem fit to prescribe by notification in the Bombay Government Gazette either generally for the whole Presidency, or for any local area, district, city, town or village, shall be transported or removed from any one place to any other place unless—

(*a*) in the case of liquor other than country-liquor, the quantity transported or removed is *bonâ fide* required for private consumption, or for sale at any place to which the same is being transported or removed, and at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, or

(*b*) under a permit issued by an Ábkárí-officer duly empowered in this behalf under the provisions of the next following section.

Permits for transport.

13. Permits for the transport or removal of liquor or intoxicating drugs may be issued by the Collector or by any other Ábkárí-officer duly empowered in this behalf.

Such permits may be issued either generally for definite periods, or for specified occasions only.

Every such permit shall specify—

(*a*) the name of the person authorized to transport or remove liquor or intoxicating drugs;

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted; and

(*d*) the places from and to which the liquor or intoxicating drugs are to be transported or removed, and, in the case of places more than ten miles apart, the route by which they are to be conveyed.

IV.—Manufacture.

14. No liquor or intoxicating drug shall be manufactured,
no toddy shall be drawn from any tree,
no distillery or brewery shall be constructed or worked, and
no person shall use, keep or have in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug,
except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf or under the provisions of section 23.

Manufacture of liquor or intoxicating drug prohibited except under provisions of Act.

15. The Collector may, with the previous sanction of Government,—
(*a*) establish at any place within his jurisdiction a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under the last preceding section on such conditions as Government deems fit to impose, and
(*b*) discontinue any public distillery so established.

Establishment of public distilleries.

V.—Sale. [a]

16. Except as is hereinafter otherwise provided, no liquor and no intoxicating drug shall be sold without a license or pass from the Collector :

Provided that, in the City of Bombay and in such other places as Government may from time to time direct, no such license shall be necessary for the sale of any liquor not manufactured or produced in India, in its original casks or packages as imported, or in small quantities as *bonâ fide* samples :

Provided, further, that no such license shall be necessary for the sale, by a cultivator or owner of any plant from which an intoxicating drug is produced, of those portions of the plant from which the intoxicating drug is manufactured or produced, to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs.

Sale of liquor and intoxicating drugs prohibited without license or pass.

17. It shall be lawful for Government from time to time, by notification in the Bombay Government Gazette, to limit the quantity of country-liquor or of any intoxicating drug which may be sold by retail at one time, or to one and the same person, in the aggregate on any one day within any defined local area or place.

Limit of retail-sale.

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[a] As to sale of spirituous liquors and intoxicating drugs in cantonments, see Act XIII of 1889, Ch. III.

When any such limit has been prescribed in any local area or place, the Collector or any Abkárí-officer duly empowered in this behalf may, subject to rules to be prescribed by the Commissioners under section 35, give special orders for the occasional sale of country-liquor or of any intoxicating drug in quantities exceeding such limit.

Sale of toddy.

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy, shall sell toddy, and no person transporting or removing toddy under a permit granted under clause (*b*) of section 12, shall sell the same, except—

(*a*) under a license granted under section 16, or

(*b*) to a person licensed to manufacture or sell liquor under this Act:

Provided that Government may from time to time, by notification in the Bombay Government Gazette, suspend all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without license or pass in such local area, notwithstanding anything in this Act.

[a] *VA.—Special provisions as to Mhowra Flowers.*

Special provisions as to Mhowra flowers.

[a] **18A.** (1) Save as is provided in sub-section (3), no person shall export from or import into any prescribed area or collect, transport, sell or have in his possession within any such area any quantity of mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the terms and conditions of a license, permit or pass granted by the Collector or other officer duly empowered in this behalf.

(2) In this section 'prescribed area' means such area, comprising either the whole or some portion of the districts of Táná and Kolába as the Governor in Council from time to time notifies in this behalf; and 'prescribed limit' means four sers or such greater quantity as the Governor in Council from time to time notifies in this behalf:

(3) Provided that during the period of two months from the 16th February to the 15th April in each year or such longer period, embracing the said two months as the Governor in Council from time to time by notification in the Bombay Government Gazette directs, no license, permit or pass shall be necessary for the collection, transport, sale or possession anywhere within the limits of the táluqás of Kalyán, Bhiwndi, Karjat, Murbád, Sháhápur and Váda or within any other portion of a prescribed area which the Governor in Council thinks fit in a notification as aforesaid to specify, of any quantity of mhowra flowers which are the produce of that year and of the said táluqás or of any or of either of them or other portion of a prescribed area, if any, so specified.

[a] This heading and section were inserted by Bom. Act III of 1892, s. 2.

VI.—Duties.

19. A duty shall, if Government so direct, be levied on all liquor— Duty on liquor.

(*a*) permitted to be imported into any part of the Presidency of Bombay under the provision of section 9, clause (*c*), or

(*b*) permitted to be exported from any part of the Presidency of Bombay under the provision of section 10, clause (*c*), or

(*c*) manufactured under any license granted under section 14, or

(*d*) manufactured at any distillery established under section 15, or

(*e*) permitted under section 13 to be transported or removed from any one place to any other place,

at such rate or rates as Government may from time to time prescribe. Rate.

The said duty may be imposed at a certain rate per imperial gallon of liquor of not more than a certain strength, to be augmented in proportion as the strength of the liquor exceeds such strength, or in a lump sum to be paid daily or monthly or at other specified periods, in consideration of the privilege granted, or in any other manner whatsoever that Government may deem fit to direct.

20. For every toddy-producing tree from which toddy is drawn there shall, if Government so direct, be levied for any period during which such tree is tapped such duty as Government from time to time directs; Duty on tapping of toddy trees.

and every license for drawing toddy granted under section 14 shall specify, in addition to any other particulars prescribed by Government under section 30,—

(*a*) the number, description and situation of the trees to be tapped;

(*b*) the amount of duty to be levied in respect of each tree included in the license;

(*c*) the instalments, if any, in which and the periods at which the said duty shall be leviable.

21. The said duty shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees. Duty by whom payable.

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the license under the provisions of the law for the time being in force relating to the recovery by superior landholders of their dues from their tenants. Owner entitled to assistance in recovering from licensee duty paid by him.

Farming of right of drawing toddy within local area.

23. It shall be lawful for the Government within any local area to which they shall deem fit to apply the provisions of this section, instead of directing the levy of a duty under section 20 on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

Levy of tax or fee on toddy trees prior to Act legalized.

24. The levy heretofore made in certain districts of a tax on the tapping of toddy trees, or of a license-fee for drawing toddy from such trees, shall be deemed to have been lawfully made, and may hereafter be continued, subject to the provisions of this Act, at the same rates and subject to the same rules as are now in force until such time as Government, in exercise of the powers conferred by this Act, otherwise directs.

Arrears of any such tax or fee which accrued before the passing of this Act shall be recoverable as a duty due under this Act.

Privilege of drawing toddy from Government trees.

25. The privilege of drawing toddy from trees the right to which vests in Government may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of Government, deems fit.

Adjustment of duty when joint privileges are conceded.

26. Whenever one and the same person is permitted—

(*a*) to draw toddy and sell it in its unfermented state, or

(*b*) to draw toddy and export it in its unfermented state, or

(*c*) to import unfermented toddy and sell it in its unfermented state, or

(*d*) to draw or to import fermented or unfermented toddy and use it in the manufacture of other liquor, or

(*e*) to manufacture, or to import and sell, or

(*f*) to manufacture and export,

any country-liquor other than unfermented toddy,

such duty may be levied in consideration of the joint privileges granted, as the Collector, acting under the general or special orders of Government, thinks fit.

Duty on intoxicating drugs.

27. Whenever a license is granted under this Act for the manufacture or sale of any intoxicating drug, and whenever the import, export, transport or removal from place to place of any intoxicating drug is permitted under

this Act, such duty shall be levied in consideration of the privilege granted, as the Collector, acting under the general or special orders of Government, thinks fit.

28. All or any of the duties leviable under this Act in any local area may, with the sanction of Government, be farmed, subject to such payment and on such other conditions as Government shall prescribe. Duties may be farmed.

29. When any amount is due to any such farmer from such farmer's licensee in respect of a license, or to any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant: Farmer may apply to Collector to recover amounts due to him.

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the Civil Court or otherwise any amount due to him from any such person as aforesaid.

VII.—Licenses, etc.

30. Every license, permit or pass granted under this Act shall be granted— Form and conditions of licenses, etc.

(*a*) on payment of such fees, if any,

(*b*) for such period,

(*c*) subject to such restrictions and on such conditions, and

(*d*) shall be in such form and contain such particulars,

as Government directs in rules or orders made either generally, or in any particular instance, in this behalf, such rules or orders being not inconsistent with this Act:

[a] Provided that no fee shall be charged on account of any license, permit or pass in respect of mhowra flowers granted under section 18A.

31. Every person taking out a license for the manufacture or sale of any liquor or intoxicating drug under this Act shall execute a counterpart agreement in conformity with the tenor of his license, and shall give such security for the performance of his agreement as the Collector may require. Counterpart agreement to be executed by licensees.

[a] This proviso was added by Bom. Act III of 1892, s. 2A.

Power to recall licenses, etc.

32. The Collector may summarily recall or cancel any license, permit or pass granted under this Act—

(*a*) if any fee or duty payable by the holder thereof be not duly paid, or

(*b*) in the event of any breach by the holder of such license, permit or pass, or by his servants, or by any one acting with his express or implied permission, on his behalf, of any of the terms or conditions of such license, permit or pass, or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to ábkárí-revenue, or of any criminal offence.

VIII.—General Provisions.

Certain licensees required to keep measures, etc.

33. Every person who manufactures or sells liquor under a license granted under this Act shall be bound—

(*a*) to supply himself with such measures and with such instruments for testing the strength or quality of liquor as the Collector prescribes, and to keep the same in good condition, and

(*b*) on the requisition of any Ábkárí-officer duly empowered in this behalf at any time to measure out or test the strength or quality of any liquor in his possession in such manner as the said Ábkárí-officer may require.

Recovery of duties, etc.

34. All duties, taxes, fines and fees leviable under any of the foregoing provisions of this Act or of any license, permit, or pass issued under it, and all amounts due from any farmer under this Act, may be recovered from the person primarily liable to pay the same, or from his surety (if any) as if they were arrears of land-revenue.

IX.—Powers of Ábkárí-officers.

Power to Commissioners to frame rules.

35. The Commissioners may from time to time frame rules—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who use it in the manufacture of other liquor;

(*b*) determining the number of licenses of each description to be granted in any district or place;

(*c*) regulating the number, size and description of stills to be used in any distillery;

(*d*) providing for the inspection and supervision of stills, distilleries and breweries;

(*e*) for the management of any public distillery established under section 15;

(*f*) for placing the preparation of intoxicating drugs, and the storage, import, export, transport or removal of liquor or intoxicating drugs under such supervision as may be deemed necessary for the purposes of this Act;

(*g*) prescribing the occasions on which special orders may be granted under section 17 for the retail sale of larger quantities of country liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;

(*h*) prohibiting the use of any article which they shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug.

Powers exerciseable by Ábkárí-officers on information that liquor, etc., is unlawfully manufactured, etc.

36. Any Commissioner or Collector, or other Ábkárí-officer duly empowered in this behalf, may—

(*a*) enter and inspect, at any time by day or by night, any shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of any liquor or intoxicating drug, or draws toddy, or stores any such liquor or drug, and examine, test, measure or weigh any such person's stock of liquor, drugs or materials; or

(*b*) enter, at any time by day or by night, any building, vessel or enclosed place in which he has reason to believe that liquor or any intoxicating drug liable to confiscation under this Act is manufactured, kept or concealed, or that toddy is drawn, or that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing liquor or any intoxicating drug contrary to the provisions of this Act; and

(*c*) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel, or other place; and

(*d*) seize any liquor or drug and any material used in the manufacture thereof, and any still, utensil, implement or apparatus, and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to ábkárí-revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to ábkárí-revenue.

Power to seize liquor, etc., in open places, and to detain, search and arrest.

37. Any Commissioner or Collector, or other Ábkárí-officer duly empowered in this behalf, may—

(*a*) seize in any open place, or in transit, any liquor or intoxicating drug or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to ábkárí-revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has any such liquor, drug or other thing in his possession, arrest him.

Searches how made.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure, 1882 [a]. X of 1882.

Officers of certain departments bound to assist.

39. All officers of the departments of Police, Customs, Salt, Opium or Revenue, or of the Bombay Port-trust, shall be legally bound to assist any Ábkárí-officer in carrying out the provisions of this Act.

Issue of warrants.

40. Any Commissioner, or Collector, or other Ábkárí-officer duly empowered in this behalf, or a Magistrate, may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to ábkárí-revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any liquor or intoxicating drug is manufactured or sold, or that any toddy is drawn contrary to the provisions of this Act, or that any liquor, intoxicating drug or other thing liable to confiscation under this or any other law for the time being in force relating to ábkárí-revenue is kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882 [a], by a Police-officer or by an Ábkárí-officer duly empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person. X of 1882.

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[a] The reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

41. Every person arrested and thing seized under section 36, 37 or 40 shall be forwarded without delay to the officer in charge of the nearest Police-station, who shall inquire into and deal with the case as one of an offence for which the Police may arrest without a warrant. Disposal of person arrested or thing seized.

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold by retail shall be closed at such times as he may deem it necessary for the sake of public peace and order that such shop should remain closed. Closing of shop for sake of public peace.

In the event of the occurrence of a riot or unlawful assembly in the vicinity of any such shop, it shall be lawful for any Magistrate or Police-officer who is present to require such shop to be kept closed for such period as he deems fit.

X.—Penalties.

43 [a] (1). Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,— For illegal import, etc.

(*a*) imports or exports liquor or any intoxicating drug into or out of any part of the Presidency of Bombay, or

(*b*) transports or removes liquor or any intoxicating drug from one place to another, or

(*c*) manufactures liquor or any intoxicating drug, or

(*d*) draws toddy from any tree, or

(*e*) constructs or works any distillery or brewery, or

(*f*) uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug, or

(*g*) sells liquor or any intoxicating drug,

shall be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

[b] (2). Whoever, in contravention of this Act or of any rule or order made under this Act or of any license, permit or pass granted under this Act, imports, exports, collects, transports, sells or has in his possession mhowra flowers shall be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment which may extend to three months or with both: Provided that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

[a] By Bom. Act III of 1892, s. 3, it was directed that the original s. 43 be numbered and cited as sub-section (1) of section 43.

[b] This sub-section was added by Bom. Act III of 1892, s. 3.

For neglect to keep measures, etc.

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,—

(a) neglects to supply himself with measures for measuring liquor or with instruments for testing the strength of liquor, or to keep the same in good condition, or

(b) refuses to measure or test the strength or quality of any liquor in his possession,

shall be punished for each such offence with fine which may extend to two hundred rupees.

For misconduct by licensee, etc.

45. Whoever, being the holder of a license, permit or pass granted under this Act,—

(a) fails to produce such license, permit or pass on the demand of any Akbári-officer duly empowered to make such demand, or of any officer of the departments named in section 39 superior in rank to a peon or constable, or

(b) wilfully does, or omits to do, anything in contravention of any rules or orders made under this Act, or

(c) commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, or

(d) wilfully contravenes any rule prescribed by a Commissioner for the management of a public distillery established under section 15 [a], or

(e) commits any act in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery, or

(f) permits drunkenness, riot or gaming in any shop or place in which such liquor or drug is sold or manufactured, or

(g) permits persons of notoriously bad character to meet or remain in any such shop or place,

shall be punished for each such offence with fine which may extend to one hundred rupees.

For misconduct by licensed vendor or manufacturer.

46. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act,—

(a) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or

[a] Words repealed by Bom. Act III of 1886 are omitted.

strength, or any article prohibited by any rule made under section 35, clause (*h*), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code [a], or

XLV of 1860.

(*b*) sells or keeps, or exposes for sale, as European or foreign liquor, liquor which he knows or has reason to believe to be country-liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country-liquor, or uses any bottle, case, package or other receptacle containing country-liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code [a], or

(*d*) sells or keeps, or exposes for sale, any country-liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the Indian Penal Code [a],

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

For illegal possession of liquor, etc.

47. Whoever, except under the authority of some license, permit, pass or special order obtained under this Act, has in his possession within any local area or place to which the provision of section 17 has been applied, any larger quantity of country-liquor or of any intoxicating drug than may legally be sold by retail under the provision of the said section, shall be punished with fine which may extend to two hundred rupees.

For maliciously giving false information.

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the intent that such person be arrested, or that any building, vessel or other place be searched to the injury or annoyance of such person or of any other person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

For vexatious search or arrest.

49. Any Ábkárí or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

For vexatious delay.

50. Any Ábkárí or other officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest Police-station, as required by section 41 [a], any person arrested, or any illicit articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For conniving at escape of persons arrested, etc.

51. Any Ábkárí or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the ábkárí-revenue defrauded,

and any officer of any other department named in section 39 invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

For neglecting to assist an Ábkárí-officer.

52. Any officer of any of the departments named in section 39 who, without lawful excuse, neglects or refuses to assist any Ábkárí-officer in carrying out the provisions of this Act, shall be punished with fine which may extend to five hundred rupees.

Presumption as to commission of offence in certain cases.

53. In prosecutions under section 43 or section 47, it shall be presumed until the contrary is proved, that the accused person has committed an offence under those sections in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor or intoxicating drugs, [b] or mhowra flowers [b], or any such

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b-b] These words were inserted by Bom. Act III of 1892, s. 4.

materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily;

and the holder of a license, permit or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting on his behalf under section 43, 44, 45 or 46 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Things liable to confiscation.

54. All liquor, [a] mhowra flowers [a] or intoxicating drugs imported, exported, transported, removed, manufactured, sold or had in possession in contravention of this Act or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act, and

all toddy drawn from any tree in contravention of this Act, or of any such rule, order, license, permit or pass as aforesaid; and

all liquor, if any, [b] all mhowra flowers, if any [b], and all intoxicating drugs, if any, lawfully imported, exported, transported, removed, manufactured, sold or had in possession, and all toddy, if any, lawfully drawn, along with, or in addition to, any liquor [c] mhowra flowers [c] or intoxicating drugs, imported, exported, transported, removed, manufactured, sold or had in possession, or along with, or in addition to, any toddy drawn as aforesaid; and

all stills, utensils, implements or apparatus whatsoever for the manufacture of liquor or of any intoxicating drug, used, kept or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license obtained under this Act; and

all materials collected or had in possession for the purpose of unlawfully manufacturing liquor or any intoxicating drug, and

the vessels, packages and coverings in which any liquor, [d] mhowra flowers [d], intoxicating drug, still, utensil, implement, apparatus or material aforesaid, is found, and the other contents, if any, of the vessel or package in which the same is found, and the animals, carts, vessels or other conveyances used in carrying the same,

shall be liable to confiscation.

Order of confiscation by whom to be made.

55. All confiscations under this Act shall be adjudged by the Collector:

[a-a, c-c, d-d] These words were inserted by Bom. Act III of 1892, s. 5 (*1*).

[b-b] These words were inserted by Bom. Act III of 1892, s. 5 (*2*).

Provided that no order of confiscation shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing any person who claims a right thereto, and the evidence, if any, which he produces in support of his claim.

Redemption may be allowed.

Whenever confiscation is ordered under this Act, the owner of the thing ordered to be confiscated may, at the discretion of the Collector, be given an option of redeeming it on payment of such fine as the Collector thinks fit.

XI.—Procedure.

Cognizance of offences.

56. All offences against this Act shall be cognizable by a Magistrate.

57. [*Applicability of certain portions of Indian Penal Code.*] *Repealed by Bom. Act III of 1886.*

Disposal of things confiscated.

58. All things confiscated under this Act shall be disposed of in such manner as the Commissioners from time to time direct in rules or orders made either generally or in any particular instance in this behalf.

Payment of rewards.

59. Government may from time to time make rules for regulating the payment of rewards to officers and informers out of the proceeds of fines and confiscations under this Act.

Appeals.

60. All orders passed by any Abkari-officer other than the Collector or Commissioner under this Act shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

All orders passed by a Collector or Commissioner shall be appealable to the Commissioner or to Government, respectively, at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by a Commissioner on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

XII.—Miscellaneous.

Saving of certain Acts.

61. Nothing in this Act affects the Cantonments Act, 1889 [a], or Act XVI of 1863 [b] (*An Act to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry*),

[a] The reference to Act XVIII of 1853 and Bom. Act III of 1867 is altered in accordance with Act XIII of 1889, s. 2.

[b] Printed, General Acts, 1834-66, Ed. 1887, p. 382.

or any enactment passed by the Governor General in Council since the 16th November, 1861, the date on which the Indian Councils Act [a] came into force.

24 & 25 Vict., c. 67.

Exception of medicated articles.

62. Nothing in the foregoing provisions of this Act applies to the manufacture, sale or supply of any *boná fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for Government at any time, by notification in the Bombay Government Gazette, to prohibit the sale of any such article within any defined local area or place except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

Annual payment to Bombay Municipal Corporation in lieu of money received under Bombay Act IX of 1867.

63. Whereas it was provided by section 14 of Bombay Act IX of 1867 [b] that all money realized, collected or obtained by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the municipal fund of the City of Bombay for municipal purposes, it is hereby enacted that, in lieu of the money hitherto so received by the Municipal Corporation of the City of Bombay, a fixed sum of Rs. 1,43,750 shall, from and after the first day of August, 1878, be annually paid by Government to the said Corporation for the said purposes.

64-66. [*Certain rights to cease*]. *Repealed by Act XVI of 1895.*

Bar of action.

67. No action shall lie against Government or against any Ábkárí-officer for damages in any Civil Court for any act *boná fide* done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to ábkárí-revenue;

and all prosecutions of any Ábkárí-officer, and all actions which may be lawfully brought against Government or against any Ábkárí-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards;

and any such action shall be dismissed—

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

[a] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.
[b] Bom. Act IX of 1867 is repealed by s. 2. of this Act.

(*b*) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant:

Provided that nothing in this section shall be deemed to affect the powers or jurisdiction of Her Majesty's High Court of Judicature or of the Court of Small Causes at Bombay.

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XVI of 1895.

BOMBAY ACT No. II OF 1879.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th April, 1879.*)

An Act to further amend Act XIII of 1856.

[NOTE.—The amendments made by this Act was incorporated in Act XIII of 1856 and Bom. Act I of 1872, respectively, as printed on pp. 74 *et seq.* of Vol. 1 of this Code and pp. 135 *et seq. supra.*]

THE KARÁCHI VACCINATION ACT, 1879.

CONTENTS.

PREAMBLE.

SECTIONS.

Preliminary.

1. Short title.
   Local extent.
   Commencement.
2. Interpretation-clause.

Establishment.

3. Vaccination-districts.
   Appointment of public vaccinators.
   Public vaccine-stations.
   Notification of districts and stations.
4. Public vaccinator to live within his district.

SECTIONS.

5. Qualifications of public vaccinator.
6. Superintendent of vaccination.
Assistant Superintendents.

Vaccination.

7. Parent or guardian of children born,
and of unprotected children brought to reside, in Karachi,
must procure their vaccination.
Public vaccinator bound to vaccinate all children brought to him.
8. Inspection.
Re-vaccination.
9. If child unfit for vaccination, certificate in form A to be given.
Certificate to remain in force for two months, but renewable.
When successive postponement-certificates to be granted.
10. Provision for giving certificates of insusceptibility to successful vaccination.
11. Provision for giving certificates of successful vaccination.
12. Vaccination must ordinarily be performed with animal-lymph.
13. No fee for vaccination or for certificates.
Proviso.

Registration.

14. Registrar of births to give notice of requirement of vaccination.
15. Duplicates of certificates to be transmitted to Registrar.
16. Registrar to keep vaccination notice and certificate book;
17. also duplicate register of births, with entries concerning vaccination;
18. and also register of postponed vaccinations.
19. Transmission of returns to Superintendent.

Prosecutions and Offences.

20. Penalty for inoculating, and for entering town of Karáchi after inoculation.
21. Magistrate may make order for vaccination of unprotected child under fourteen years.
Penalty for disobedience of order.
Proviso for costs to person improperly summoned.
22. Penalty for not producing child.
23. Penalty for neglect to take child to be vaccinated, etc.
24. Penalty for making or signing false certificate.
25. Penalty for accepting illegal fee or remuneration.
26. Cognizance of offences.
27. Prosecution for neglect.
28. [*Repealed.*]

Miscellaneous.

SECTIONS.
29. Books and forms.
30. Annual return of number of children vaccinated, etc.
31. Civil Surgeon of Karáchi to make rules.

SCHEDULE A.
SCHEDULE B.
SCHEDULE C.
SCHEDULE D.
SCHEDULE E.

BOMBAY ACT No. IV OF 1879.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 27th June, 1879.*)

An Act to prohibit the practice of inoculation and to make the vaccination of children in the town of Karáchi compulsory.

Preamble.

WHEREAS it is expedient to prohibit the practice of inoculation and to make the vaccination of children in the town of Karáchi compulsory; It is enacted as follows :—

PRELIMINARY.

Short title.

1. This Act may be cited as the Karáchi Vaccination Act, 1879.

Local extent.

It extends only to the town of Karáchi.

Commencement.

It shall come into force on such day[a] as the Governor in Council directs by notification in the Bombay Government Gazette; and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

(1) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child :

(2) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf :

(3) "public vaccinator" means any vaccinator appointed under this Act, or any deputy duly authorized to act for such public vaccinator :

[a] The 1st September, 1879—see Bombay Government Gazette, 1879, Pt. I, p. 690.

(4) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act :

(5) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination :

(6) "animal-lymph" means vaccine taken from the calf.

ESTABLISHMENT.

Vaccination-districts.

3. For the purposes of this Act the Civil Surgeon of Karáchi, or such, other officer as Government directs, shall divide the town of Karáchi into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "vaccination-district."

Appointment of public vaccinators.

The Civil Surgeon or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination.

Public vaccine-stations.

Such stations shall be called "public vaccine-stations."

Every such public vaccinator shall be removeable from office by the Civil Surgeon or other officer aforesaid.

Notification of districts and stations.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31 [a].

Public vaccinator to live within his district.

4. Every public vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of ," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district.

Qualifications of public vaccinator.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

[a] Words repealed by Bom. Act III of 1886 are omitted.

Superintendent of vaccination.

6. A Superintendent of vaccination shall be appointed by Government who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

The Superintendent shall have, if necessary, one or more assistants as Government may from time to time direct.

VACCINATION.

Parent or guardian of children born, and of unprotected children brought to reside, in Karáchi,

7. The parent or guardian of every child born in the town of Karáchi shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the town of Karáchi, shall, within three months after such child's arrival in the town, or if the child be at the time of its arrival less than three months old, within six months after its birth,[a]

must procure their vaccination.

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public vaccinator bound to vaccinate all children brought to him.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on [b] any earlier or later day [b], if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child unfit for vaccination, certificate in form A to be given.

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to

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[a] Words repealed by Act XVI of 1895 are omitted.
[b-b] These words were substituted for the original words by Bom. Act III of 1882, s. 2.

the parent or guardian of such child a certificate under his hand, according to the form of Schedule A [a], or to the like effect, that the child is then in a state unfit for vaccination.

Certificate to remain in force for two months, but renewable.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C [a], according to the provisions of section 11 [a], if warranted by the result.

When successive postponement-certificates to be granted.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Provision for giving certificates of insusceptibility to successful vaccination.

10. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B [a] or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C [a] or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination must ordinarily be performed with animal-lymph.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct, by notification in the Bombay Government Gazette,—

(*a*) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

[a] Words repealed by Bom. Act III of 1886 are omitted.

(*h*) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 [a] for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations.

No fee for vaccination or for certificates.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station:

Proviso.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station.

REGISTRATION.

Registrar of Births to give notice of requirement of vaccination.

14. On the registration of the birth of any child under the provisions of the bye-laws of the Karáchi Municipality, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D [a], or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of certificates to be transmitted to Registrar.

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C [a] shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the town of Karáchi, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

Registrar to keep vaccination-notice and certificate-book;

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 [a], in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

also duplicate register of births, with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the bye-laws at the Karáchi Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil

[a] Words repealed by Bom. Act III of 1886 are omitted.

Surgeon or other officer under section 29 [a], in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C [a] received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of Schedule E [a], in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A [a], together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 [a], of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

PROSECUTIONS AND OFFENCES.

Penalty for inoculating,

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and for entering Town of Karáchi after inoculation.

and whoever, having been inoculated with small-pox in a place to which this Act does not extend, shall afterwards enter the Town of Karáchi before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion;

and whoever, having the charge, custody or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Karáchi,

shall be punished with imprisonment [a] for a term which may extend to three months, or with [b] fine which may extend to two hundred rupees, or with both.

Magistrate may make order for vaccination of

21. If the Superintendent of vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the Town of Karáchi, under the age of fourteen years, is an unprotected child, and that

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] "With" was substituted for "to" by Act XVI of 1895.

unprotected child under fourteen years.

he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of order.

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees:

Proviso for costs to person improperly summoned.

Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code [a], for the term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Penalty for neglect to take child to be vaccinated, etc.

23. Whoever, in contravention of this Act,—

(*a*) neglects, without reasonable excuse, to take or cause a child to be taken, to be vaccinated, or after vaccination to be inspected; or

(*b*) at any time during the period for which any notification made under section 12 [b] is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated; or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or

24. Whoever wilfully signs or makes, or procures the signing or making of a false certificate, or duplicate certificate under this Act, shall be punished

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] Words repealed by Bom. Act III of 1886 are omitted.

with imprisonment [a] for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both. signing false certificate.

25. If any public vaccinator accepts or obtains, or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13 [a], he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code [b]. Penalty for accepting illegal fee or remuneration.

XLV of 1860.

26. All offences under this Act shall be cognizable by a Magistrate of the first class, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of vaccination. Cognizance of offences.

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid. Prosecution for neglect

28. [*Recovery of fines.*] *Repealed by Bom. Act III of 1886.*

MISCELLANEOUS.

29. The Civil Surgeon of Karáchi, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act. Books and forms.

30. It shall be the duty of the Registrar appointed under the bye-laws of the Karáchi Municipality to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the Annual return of number of children vaccinated, etc.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Civil Surgeon of Karáchi to make rules.

31. The Civil Surgeon of Karáchi, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators, when necessary ;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5 ;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the Bombay Government Gazette.

SCHEDULE A.

(*See section 9.*)

I, the undersigned, hereby certify that, in my opinion, , the child of , resident at , in Karáchi, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE B.

(*See section 10.*)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at , in Karáchi (*or* that the child has already had small-pox, *as the case may be*) and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE C.

(See section 11.)

I, the undersigned, hereby certify that , the child of , age , resident at , in Karáchi, has been successfully vaccinated by me.

Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE D.

(See section 14.)

To

(Here insert the name of the parent, guardian or other person who gives information of the child's birth.)

Take notice that the child of *(here enter the mother's name)*, whose birth has this day been registered, must be vaccinated under the provisions of the Karáchi Vaccination Act, 187 , within six months from the date of its birth, under a penalty of [a]fifty rupees[a].

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows:—

(Here insert the days and the hours when the public vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station, within the said hours on any of the said days, or at any other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 187 .

Registrar of Births.

[a-a] These words were substituted for the original words by Act XVI of 1895.

SCHEDULE E.

(*See section 18.*)

Register of postponed Vaccinations for the District of in Karáchi.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.		Signature of Registrar.
		Year.	Number of Entry in Register.			
				1868.		
1	Venayek Pandurang.	1868	12	May	10	H. O.

THE BOMBAY LAND-REVENUE CODE, 1879.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
2. Enactments repealed.
3. Interpretation-clause.

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

4. Chief controlling authority in revenue-matters.
   Extent of territories under Commissioners.
   Division.
5. Appointments and duties of Commissioners.
6. Assistants to Commissioners.
7. Division to be divided into districts.
   District: táluqá.

SECTIONS.

8. Collector of district.
9. Assistant and Deputy Collectors;
So be subordinate to Collector.
10. Their duties and powers.
11. Collector of district in case of temporary vacancy.
12. Mámlatdár;
his appointment;
his duties and powers.
13. Mahálkari;
his duties and powers.
14. Mámlatdár or mahálkari may depute subordinates to perform certain of his duties.
Máhál.
15. Mámlatdár or mahálkari in case of temporary vacancy.
16. Stipendiary patel and village-accountant where to be appointed.
Saving of rights of holders of alienated villages.
17. Village-accountant to keep records prescribed by Collector;
and to prepare public writings.
18. Survey-officers;
their duties and powers.
19. Combination of offices.
20. Appointments to be notified.
Acting appointments.
21. Establishments.
22. Seals.

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE-OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

23. Government to direct what officers shall furnish security, and to what amount.
24. Fresh or additional security.
25. Demands for money, papers, etc., to be made known in writing to person concerned;
who may be arrested and confined in jail, if he fail to produce them.
Limit to confinement.
26. Public moneys may also be recovered as arrears of revenue;
and search-warrant issued for recovery of papers or property.
Persons in possession of public moneys, etc., bound to give them up.
27. Surety liable in same manner as principal.
Extent of liability.
Sureties not liable to imprisonment, if penalty paid.
28. Officer or surety in jail may, by furnishing security, obtain release.
29. Liability of surety not affected by death of principal or his taking different appointment.
Liability of heirs of deceased officer.
30. How surety may withdraw from further liability.

CHAPTER IV.

Of certain Acts prohibited to Revenue-officers, and of their Punishment for Misconduct.

Sections.

31. Revenue-officers, without permission,
    not to trade;
    not to purchase at public sale;
    not to be concerned in revenue;
    not to make private use of public money or property;
    not to make or receive undue exactions or presents.
32. Power of fining, reducing, suspending and dismissing in whom to vest.
    Officer to be fined, etc., only by order of Government.
33. Orders to be made in writing.
34. Fine not to exceed two months' pay:
    how recovered.
35. Appeals.
36. Liability to criminal prosecution not affected.
    Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

CHAPTER V.

Of Land and Land-revenue.

Land.

37. Public roads, etc., and lands not property of others, belong to Government.
38. Lands may be assigned for special public purposes, and,
    when assigned, not to be otherwise appropriated without sanction.
39. Regulation of use of pasturage.

Trees.

40. Concession of Government rights to trees in case of settlements completed prior to Act.
    Concession in case of settlements completed after passing of Act.
    Concession in case of land taken up after completion of settlement
41. Government trees and forests.
42. Road-side trees.
43. Recovery of value of trees, etc., unauthorizedly appropriated.
44. Regulation of supply of firewood and timber for domestic or other purposes.

Land-revenue.

45. All land liable to pay revenue unless specially exempted.
    Saving of right to levy revenue.
46. Liability of alluvial lands to land-revenue.
47. Right to remission in cases of diluvion.
    "Holding" defined.

SECTIONS.

48. Lands chargeable with land-revenue.
Assessment variable if purpose for which land is held is changed.
Land held rent-free for one purpose assessable if used for another.
Appropriation of land to certain purposes may be prohibited.
49. Land indirectly taxed to State, or
land liable to occasional assessment,
liable to commuted assessment.
50. Superior holder may recover commuted assessment from inferior holder.
51. Excess of assessment may be laid on land inadequately assessed held with it.
52. Assessment by whom to be fixed.
Proviso.
53. Register of alienated lands.
54. Settlement of assessment with whom to be made;
when to be made with under-holder.
55. Rates for use of water.
56. Land-revenue a paramount charge on land.
57. Forfeited holding may be taken possession of and otherwise disposed of.
58. Receipts to be granted by revenue-officers,
and by superior holders.
59. Penalty for failure to grant receipts.

CHAPTER VI.

OF THE OCCUPATION OF UNALIENATED LAND AND THE RIGHTS OF OCCUPANTS.

Occupation.

60. Permission required previous to taking up unoccupied land.
61. Penalties for unauthorized occupation of land.
62. Occupancy-right to be paid for and liable to conditions.
Price to include price of trees.
63. Occupancy of alluvial land which vests in Government.
64. Temporary right to alluvial lands of small extent.
"Holding" defined.

Occupants' Rights.

65. Uses to which occupant of land for purposes of agriculture may put his land.
Procedure if occupant wishes to apply land to other purpose.
Power to require fine in addition to special assessment.
66. Penalty for so appropriating land without permission.
Co-occupant or tenant responsible to registered occupant in damages.
67. Permission may be granted on terms.
68. Occupants' rights conditional.
69. Reservation of Government right to mines.
Proviso.
70. Decree or order of competent Court to be given effect to.
71. Name of heir to be registered when registered occupant dies.

SECTIONS.

When entry to be amended.
72. Intestate occupancy or holding to be sold.
73. Right of occupancy to be transferable and heritable.

Relinquishment of Occupancy.

74. Occupant may relinquish occupancy.
75. Relinquishment of lands paying lump assessment.
76. Application of sections 74, 75.
Relinquishment of land described in paragraph 1 of section 49.
Relinquishment of land described in section 51.
77. Right of way to relinquished land.
78. Sections 75 and 76 not to affect—
responsibility of share in certain village;
validity of lease from Government.
79. Occupant to continue liable for demands until occupancy relinquished.

Remedies against Forfeiture of Occupancies.

80. Right of person other than occupant to pay land-revenue to prevent forfeiture.
Collector may assist such persons in recovering the revenue from other parties liable therefor.
Proviso.
81. When Collector may make co-occupant the registered occupant, instead of selling occupancy to realize land-revenue.

Suspension of certain Provisions of this Chapter.

82. Power to suspend operation of section 60 or 74.

CHAPTER VII.

OF SUPERIOR AND INFERIOR HOLDERS.

Tenants' Rights.

83. Amount of rent payable by tenant.
Duration of tenancy.
Presumption as to tenure.
Saving clause.
84. Termination of annual tenancy.
Notice of termination of tenancy to be given by landlord to tenant, or *vice versâ*.
85. Superior holders' dues by whom to be collected.

Recovery of superior Holders' Dues.

86. Superior holders entitled to assistance in recovery of dues from inferior holders, etc.
Application for assistance when to be made.

SECTIONS.

87. Collector how to proceed on such application.
Assistance may be refused or granted in part.
Civil suit not barred.

Grant of special Powers to holders of alienated Lands.

88. Governor in Council may, by commission, confer on holders of alienated lands power—
to demand security for land-revenue;
to attach defaulter's property;
to fix time at, and instalments in, which revenue due shall be paid;
to exercise Collector's powers;
to receive notices of relinquishment;
to arrange for repair of boundary-marks.
Proviso.
89. Form of such commission.
90. Reference to be made by holder of commission to Collector.
91. When compulsory process shall cease.
Penalty for continuing compulsory process.
92. Arrears to which power under commission to extend.
93. Holder of commission not to enforce unusual or excessive demand.
Penalty for so doing.
94. Holder of commission may establish right to enhanced rent in Civil Court.

CHAPTER VIII.

OF SURVEY-SETTLEMENTS AND THE PARTITION OF ESTATES.

95. Power to introduce revenue-survey into any part of Presidency.
Control of revenue-survey.
96. Survey-officer may require, by general notice or by summons, suitable service from holders of land, etc.
97. Assistance to be given by holders and others in measurement or classification of lands.
98. Survey-numbers not to be of less extent than minimum fixed.
Exception.
99. Provisions applicable to recognized shares of survey-numbers.
100. Officer in charge of survey to fix assessments.
Regard to be had to proviso to section 52.
Proviso.
101. Assessment may be on land, or on means of irrigation, etc.
102. Assessments not leviable without sanction of Government.
But may be fixed with or without modification, for term of years.
103. Introduction of survey-settlement how made.
104. Excess assessment not to be levied in year in which survey-settlement is introduced;
nor in following year if number resigned that year.
105. Fixing of assessment under section 102 limited to ordinary land-revenue.

SECTIONS.

106. Government may direct fresh survey and revision of assessment.
107. Revision of assessment.
108. Preparation of statistical and fiscal records.
109. Officers to correct clerical and admitted errors in settlement-register, and inquire into and pass orders on applications for mutation of names.
110. Collector to keep survey-records and frame village-records in accordance therewith;
and to register changes, etc.
111. Revenue management of villages or estates not belonging to Government that may be temporarily under Government management.
112. Maintenance of existing settlements of land-revenue.

Partition.

113. Partition of estate paying revenue to Government.
114. Partition of certain estates by Collector on application by co-sharers.
115. Sub-division of numbers at time of revision of survey.
116. Separate demarcation of land appropriated under section 65 or 67.
117. Bombay Act V of 1862 not affected.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

118. Determination of village-boundaries.
Village-boundaries may be settled by agreement.
Procedure in case of disagreement or dispute.
119. Determination of field-boundaries.
120. Settlement of boundary-disputes by arbitration.
When award may be remitted for re-consideration.
If arbitration fail, survey-officer to settle dispute.
121. Effect of settlement of boundary.

Boundary-marks.

122. Construction and repair of boundary-marks of villages and survey-numbers.
Requisition on landholders to erect or repair boundary-marks.
General notification to be sufficient notice of requisition.
Description of boundary-marks.
123. Responsibility for maintenance of boundary-marks.
124. Collector to have charge of boundary-marks after introduction of survey-settlement.
125. Penalty for injuring boundary-marks.

CHAPTER X.

OF LANDS WITHIN THE SITES OF VILLAGES, TOWNS AND CITIES.

Fixing of Sites.

126. Limits of sites of villages, towns and cities how fixed.

Exemption from Land-revenue.

SECTIONS.
127. Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites.
128. Existing exemption when continued in case of certain lands.
129. Right to exemption determined by Collector.
130. Occupancy-price payable in addition to assessment, in certain cases.

Miscellaneous.

131. Survey of lands in such sites how conducted.
Proviso.
132. In certain cases survey-fee to be charged.
133. Sanad to be granted without extra charge.
Proviso.
134. Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.
135. Limitation of certain suits.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE DEMANDS.

Responsibility for Land-revenue.

136. Primary responsibility.
Recovery of land-revenue if person primarily responsible fails to pay it.
Credit allowed to inferior holder for recoveries made from him.

Priority of Government Claim for Land-revenue.

137. Claims of Government to have precedence over all others.
138. Liability of crop for revenue of land.

Land-revenue when leviable.

139. Land-revenue may be levied at any time during revenue year.

Precautionary Measures for the Security of the Land-revenue.

140. Removal of crop which has been sold, etc., may be prevented until revenue paid.
141. To secure land-revenue Collector may
prevent reaping of crop, or
removal thereof, or
place watchmen over it.
142. Collector's orders under last section how made known.
Penalty for disobedience of order.
143. Reaping, etc., not to be unduly deferred.
Crop when to be released.

SECTIONS.

144. Temporary attachment and management of village or share of village.
Powers of manager, and disposal of surplus-profits.
145. Precautionary measures to be relinquished on security being furnished.

Regulation of Payment of Land-revenue.

146. Government to determine dates, etc., on which land-revenue shall be payable.

Defaulters.

147. Arrear.
Defaulters.
148. Liabilities incurred by default.
149. Certified account to be evidence as to arrears.
Collectors may realize each other's demands.

Recovery of Arrears.

150. Process for recovery of arrears.
151. Revenue-demands of former years how recoverable.
Proviso.

Notice of Demand.

152. When notice of demand may issue.

Forfeiture of Occupancy or alienated Holding.

153. Occupancy or alienated holding for which arrear is due may be forfeited.

Sale of Defaulter's Property.

154. Distraint and sale of defaulter's moveable property.
By whom to be made.
155. Sale of defaulter's immoveable property.
156. Exemption from distraint and sale.

Arrest and Imprisonment.

157. Arrest and detention of defaulter.
Imprisonment in civil jail.
Limit to detention of defaulters.
158. Power to declare by whom power of arrest to be exercised.

Attachment of Villages.

159. Power to attach defaulter's village, and take it under management.
160. Lands of such village to revert free of incumbrances.
Powers of manager.
161. Application of surplus profits.
162. Restoration of village so attached.
Disposal of surplus receipts.
163. Village, etc., to vest in Government, if not redeemed within twelve years.

Stay of Proceedings.

SECTIONS.

164. Processes to be stayed on security being given; or on amount demanded being paid under protest.

Procedure in respect of Sales.

165. Procedure in effecting sales.
Proclamation of sales.
166. Notification of sales.
167. Sale by whom to be made.
Time when sale may be made.
Postponement of sale.
168. Sale of perishable articles.
169. When sale may be stayed.
170. Sales of moveable property when liable to confirmation.
171. Mode of payment for moveable property when sale is concluded at once.
172. Payment when sale is subject to confirmation.
173. Deposit by purchaser in case of sale of immoveable property.
174. Purchase-money when to be paid.
175. Effect of default
176. Liability of purchaser for loss by re-sale.
177. Notification before re-sale.
178. Application to set aside sale.
179. Order confirming or setting aside sale.
180. Refund of deposit or purchase-money when sale set aside.
181. On confirmation of sale, purchaser to be put in possession.
Certificate of purchase.
182. Bar of suit against certified purchaser.
183. Application of proceeds of sale.
Expenses of sale how calculated.
184. Payment of surplus to creditors.
185. Liability of purchaser for revenue.
186. Claims to attached moveable property how disposed of.

Application of the Provisions of this Chapter.

187. What moneys leviable under provisions of chapter.
Sureties liable as revenue-defaulters.
On resumption of farm, no payments to contractor in advance admitted.

CHAPTER XII.

PROCEDURE OF REVENUE-OFFICERS.

188. Subordination of Revenue-officers.
189. Power to summon persons to give evidence and produce documents.

SECTIONS.

190. Summons to be in writing, signed and sealed; how to be served.
Service in district other than that of issuer.
191. Mode of serving notices.
Notice not void for error.
192. Procedure for procuring attendance of witnesses.

Formal Inquiry.

193. Mode of taking evidence in formal inquiries.
Taking evidence given in English.
Translation to be on record.
194. Writing and explanation of decisions.

Summary Inquiry.

195. Summary inquiries how conducted.
196. Formal and summary inquiries to be deemed judicial proceedings.
Hearing and decision.
Notice to parties.
197. Ordinary inquiries how conducted.
198. Copies and translations, etc., how obtained.
199. Arrest of defaulter to be made upon warrant.
200. Power of Revenue-officer to enter upon lands or premises for purposes of measurement, etc.
Proviso.
201. Power to determine language of district.
202. Mode of evicting person wrongfully in possession of land.

CHAPTER XIII.

APPEALS AND REVISION.

203. Appeal from order passed by Revenue-officer to his superior.
204. Appeal to Governor in Council.
205. Limitation of appeals.
206. Admission of appeal after period of limitation.
207. Provision where last day for appeal falls on Sunday or holiday.
208. What to accompany petition of appeal.
209. Powers of appellate authority.
210. Power to suspend execution of order of subordinate officer.
211. Power to call for and examine records and proceedings of subordinate officers;
and to pass orders thereupon.
212. Explanation as to decisions or orders expressly made final.

CHAPTER XIV.

MISCELLANEOUS.

213. Maps, land-registers and village-accounts, etc., open to inspection.
Extracts and copies to be given.

SECTIONS.

214. Power to frame rules.
215. Rules to be published.
Power to provide for penalties.
216. Chapters VIII to X how far applicable to alienated villages.
217. Occupants in alienated villages.
218. Construction of Act.
SCHEDULES.

BOMBAY ACT No. V OF 1879.[a]

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 17th July, 1879.*)

An Act to consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to Revenue-officers, and to the assessment and recovery of land-revenue, and to other matters connected with the land-revenue-administration; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the Bombay Land-Revenue Code, 1879. Short title.

It extends to the whole of the Presidency of Bombay except the Scheduled Districts, as defined by Act XIV of 1874 [b], and the City of Bombay. Local extent.

[*Commencement*]. *Repealed by Act XVI of 1895.*

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[a] Bom. Act V of 1879 (with the exception of s. 104) has been extended, by notification under the Scheduled Districts Act, 1874, to various parts of the Province of Sindh—see Appendix to Vol. I of this Code, pp. xxxvi to xlii.

The proceeds of all fees levied under Bom. Act V of 1879 for permission to remove sand or to quarry are to be credited to the Local Fund constituted by Bom. Act I of 1884—see s. 44 of the latter Act, in Vol. III of this Code.

Ss. 68, 72, 73, 74, 99, cl. (*b*), 104, para. 2, 112, 150, cl. (*b*), and 153 of Bom. Act V of 1879 do not apply to any village in the district of Ratnágiri or the district of Kolába to which the Khoti Settlement Act, 1880, extends; and ss. 103, 118, 119, 123, 136, 150, cl. (*f*), and 162 of the Act are subject to modification when applied to any such village—see Bom. Act I of 1880, ss. 1 and 39, *infra*.

Ss. 38 to 40, 44, 60 to 67, 76, 82, 85, 109, 110, 116, 127 to 136, 163, 216 and 217 of Bom. Act V of 1879 do not apply to any estate in the districts of Ahmedabad, Kaira, Broach or Pánch Maháls to which the Gujarát Táluqdárs Act, 1888, extends; and ss. 3, cl. (*1*), 46, 54, 88, 89, 94, 111, 113, 147, 150, cl. (*f*), 160, 162, 214 of the Act, and the words "occupant," "registered occupant" and "occupancy" throughout the Act, are subject to modification when applied to any such estate—see Bom. Act VI of 1888, ss. 1 and 33, printed in Vol. III of this Code.

[b] For Act XIV of 1874 see the revised edition, as modified up to 1st October, 1895, published by the Legislative Department.

Enactments repealed.

2. The Regulations and Acts mentioned in the Schedule A [a] are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them.

All references made in any Bombay Regulation or in any Act of the Governor of Bombay in Council, or in any Act of the Governor General in Council passed before the coming into operation of the Indian Councils Act, 1861,[b] to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act. 24 & 25 Vict., c. 67.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any enactment hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

[c](1) "Revenue-officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith:

(2) "survey-officer" means an officer appointed under, or in the manner provided by, section 18 [a]:

(3) the word "Collector" means the Collector of the district:

(4) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory:

(5) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same:

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Printed in the Collection of Statutes relating to India, Ed. 1881, Vol. I., p. 695.
[c] As to the local modification of s. 3, cl. (*1*), see para. 4 of footnote on p. 303, *supra*.

(6) "survey-number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey-records of the village, town or city in which it is situated, and includes a recognized share of a survey-number:

(7) "recognized share of a survey-number" means a sub-division of a survey-number separately assessed and registered:

(8) "building-site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon:

(9) "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, vacant strip of ground, or other object whether natural or artificial, set up, employed or specified by a Survey-officer, or other Revenue-officer having authority in that behalf, in order to designate the boundary of any division of land:

(10) "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting:

(11) "holder" or "landholder" signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public; it includes a mortgagee vested with a right to possession:

(12) "holding" signifies land over which such right extends:

(13) "superior holder" signifies a holder entitled to receive from other holders rent or land-revenue on account of lands held by them, whether he be accountable or not for the same, or any part thereof, to the Government:

(14) "inferior holder" signifies a holder liable to pay the rent or land-revenue to a superior holder, whether on account of such superior holder or Government:

(15) "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord," or from his landlord's predecessor in title:

(16) "occupant" [a] signifies a holder of unalienated land, or, where there are more holders than one, the holder having the highest right in respect of any such land,

or where such highest right vests equally in more holders than one, any one of such holders:

[a] As to the local modification of the word "occupant," see para. 4 of footnote on p 308 *supra*.

(17) "registered occupant" [a] signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government records as holding unalienated land whether in person or by his co-occupant, tenant, agent, servant or other legal representative:

(18) "occupancy" [a] signifies the sum of the rights vested in an occupant as such:

(19) "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially, to the ownership of any person:

(20) the words "village, town or city" include all lands belonging to any village, town or city:

(21) the words "revenue-year" or "year" mean the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year.

(22) [*Definition of "section"*] *Repealed by Bom. Act III of 1886.*

(23) [*Definition of "this chapter"*] *Repealed by Bom. Act III of 1886.*

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

Chief controlling authority in revenue-matters.

Extent of territories under Commissioners.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Commissioner, subject to the Governor in Council.

There shall be one or more Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly notified.

Division.

The territories under each Commissioner shall form, and be called, a division [b].

Appointments and duties of Commissioners.

5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers or duties of

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[a] As to the local modification of the words "registered occupant" and "occupancy," see para. 4 of footnote on p. 303, *supra*.

[b] Words repealed by Act XVI of 1895 are omitted.

appeal, superintendence and control within their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government.

Assistants to Commissioners.

6. Each Commissioner shall have such number of assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners, to whom they are respectively subordinate, may from time to time direct.

Division to be divided into districts.

7. Each division, under the control of the Commissioner shall be divided into such number of districts with such limits as may from time to time be prescribed by a duly published order of the Governor in Council.

District: táluqá.

And each such district shall consist of such number of táluqás, and each táluqá shall consist of such number of mahál and villages, as may from time to time be prescribed in a duly published order of the Governor in Council.[a]

Collector of district.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector[a] and who shall be subordinate to the Commissioner of his division, and may exercise, throughout his district, all the powers, and discharge all the duties, conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

Assistant and Deputy Collectors.

9. The Governor in Council may appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," etc., as may be expressed in the order of their appointment.

To be subordinate to Collector.

All such Assistant and Deputy Collectors and all other officers employed in the land-revenue-administration of the district shall be subordinate to the Collector.

Their duties and powers.

10. Subject to the general orders of Government, a Collector may place any of his assistants or deputies in charge of the revenue-administration of one or more of the táluqás in his district, or may himself retain charge thereof.

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII [b], perform all the duties and exercise all the

[a] Words repealed by Act XVI of 1895 are omitted.
[b] Words repealed by Bom. Act III of 1886 are omitted.

powers conferred upon a Collector[a] by this Act or any other law at the time being in force, so far as regards the táluqá or táluqás in his charge:

Provided that the Collector may, whenever he may deem fit, direct any such assistant or deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other assistant or deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of táluqás, the Collector shall, under the general orders of Government, assign such particular duties and powers as he may from time to time see fit.

Collector of district in case of temporary vacancy.

11. If the Collector is disabled from performing his duties, or for any reason vacates his offices or leaves his district, or dies, his assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the Collector[a] under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

Mámlatdár; his appointment;

12. The chief officer entrusted with the local revenue-administration of a táluqá shall be called a Mámlatdár. He shall be appointed by the Commissioner of the division in which his táluqá is situated.

his duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to, him by the Collector under the general or special orders of Government.[a]

Mahálkari; his duties and powers.

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint a Mahálkari to be in charge of a defined portion of a táluqá; and, subject to the orders of Government and of the Commissioner, the Collector may assign to him within his local limits such of the duties and powers of a Mámlatdár as he may from time to time see fit, and may also from time to time direct whether the Mahálkari's immediate superior shall for the purposes of section 203 [b], be deemed to be the Mámlatdár or the Assistant or Deputy Collector, or the Collector in charge of the táluqá.

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[a] Words repealed by Act XVI of 1895 are omitted.
[b] Words repealed by Bom. Act III of 1886 are omitted.

14. It shall be competent to a Mámlatdár or Mahálkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties; provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mámlatdár or Mahálkari.

Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties.

The portion of a táluqá in the charge of a Mahálkari shall be called a mahál.[a]

Mahál.

15. If a Mámlatdár or Mahálkari is disabled from performing his duties, or for any reason vacates his office, or leaves his táluqá or mahál, or dies, such subordinate as may be designated by orders to be issued from time to time on this behalf by the Collector shall succeed temporarily to the said Mámlatdár's or Mahálkari's office, and shall be held to be the Mámlatdár or Mahálkari under this Act until the Mámlatdár or Mahálkari resumes charge of his táluqá or mahál, or until such time as a successor is duly appointed and takes charge of his appointment.

Mámlatdár or Mahálkari in case of temporary vacancy.

16. In villages where no hereditary patel or village-accountant exists, it shall be lawful for the Collector under the general orders of Government and of the Commissioner to appoint a stipendiary patel or a village-accountant who shall perform respectively all the duties of hereditary patels or village-accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate Revenue-officers.

Stipendiary patel and village-accountant where to be appointed.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of patels and village-accountants in any alienated or other villages.

Saving of rights of holders of alienated villages.

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe from time to time what registers, accounts and other records shall be kept by the village-accountant.[a]

Village-accountant to keep records prescribed by Collector;

It shall also be the duty of the village-accountant to prepare, whenever called upon by the patel of his village, or by any superior Revenue or Police officer of the táluqá or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

and to prepare public writings.

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[a] Words repealed by Act XVI of 1895 are omitted.

Survey-officers;

18. For the purposes of Chapters VIII, IX and X [a] the Governor in Council may appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioner of Survey," "Superintendent of Survey," "Survey-settlement-officers" and "Assistant," or otherwise as may seem requisite, and shall be subordinated the one to the other in such order as the Governor in Council may direct.

their duties and powers.

Subject to the orders of the Governor in Council, the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

Combination of offices.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this chapter, or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Appointments to be notified.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Acting appointments.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments,

21. Subject to rules or orders made under section 214, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, namely:—

the Commissioners,
" Collectors,
" Commissioner of Survey,
" Superintendent of Survey,
" Survey-settlement-officer.

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this chapter shall be made in their respective departments by the Collector and the Superintendent of Survey: provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

22. The Governor in Council shall from time to time by notification prescribe what Revenue-officers shall use a seal, and what size and description of seal shall be used by each of such officers.[a] Seals.

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE-OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

23. It shall be lawful for Government to direct that such Revenue-officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government-paper duly endorsed, accompanied by a power to sell, or in the form contained in Schedule B [b]. Government to direct what officers shall furnish security, and to what amount.

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

24. The Collector or the Superintendent of Survey may, at any time after security has been given by a Revenue-officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which larger security is required, or for other sufficient reason, demand fresh or additional security, and in case of the officer failing to give such security within one month after its being required of him may suspend or dismiss him: Provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section. Fresh or additional security.

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any Revenue-officer or on any person formerly employed as such in his department or district for public money or papers or other Government-property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained, to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify. Demands for money, papers, etc., to be made known in writing to person concerned;

[a] Words repealed by Act XVI of 1895 are omitted.
[b] Words repealed by Bom. Act III of 1886 are omitted.

who may be arrested and confined in jail if he fail to produce them.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property, as directed, he may cause him to be apprehended, and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him :

Limit to confinement.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue;

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey-department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land-revenue from defaulters, and for the purpose of recovering public papers or other property appertaining to Government may issue a search-warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1882 [a]. X of 1882.

and search-warrant issued for recovery of papers or property.

Persons in possession of public moneys, etc., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

Surety liable in same manner as principal.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against:

Extent of liability.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security-bond executed by him or them.

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[a] The reference to Chap. XXVII of Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

(*Chap. III.—Of the Security to be furnished by certain Revenue-officers and the Liability of Principals and Sureties. Secs. 28-30. Chap. IV.—Of certain Acts prohibited to Revenue-officers, and of their Punishment for Misconduct. Sec. 31.*)

And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

Sureties not liable to imprisonment, if penalty paid.

28. If an officer or other person as aforesaid, or his surety or sureties, against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner.

Officer or surety in jail may, by furnishing security, obtain release.

29. The liability of the surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23 and until his bond is cancelled.

Liability of surety not affected by death of principal or his taking different appointment.

The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which Government may have against the deceased, in the same way as they would be for similar claims made by an individual.

Liability of heirs of deceased officer.

30. Any surety, whether under a separate or joint bond, may withdraw from his suretyship at any time on his stating in writing, to the officer to whom the bond has been given, that he desires so to withdraw; and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing, as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

How surety may withdraw from further liability.

CHAPTER IV.

Of certain Acts prohibited to Revenue-officers, and of their Punishment for Misconduct.

31. No Revenue-officer shall, except with the express permission of Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,—

Revenue-officers, without permission,

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;

not to trade;

not to purchase at public sale;

(2) purchase or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed;

not to be concerned in revenue;

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed;

and no Revenue-officer shall—

not to make private use of public money or property;

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

not to make or receive undue exactions or resents.

(5) demand or receive, under the colour or by the exercise of his authority as such Revenue-officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

Power of fining, reducing, suspending and dismissing in whom to vest.

32. Subject to rules or orders made under section 214, all Revenue-officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21:

Officer to be fined, etc., only by order of Government.

Provided that, excepting Mámlatdárs, no Revenue-officer, whose monthly salary exceeds rupees two hundred and fifty, shall be fined, suspended, reduced or dismissed except by order of the Governor in Council.

Orders to be made in writing.

33. When any Revenue-officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the language of the district or in English.

Fine not to exceed two months' pay:

34. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

All fines inflicted under this chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land-revenue are recoverable under this Act. how recovered.

35. If the Collector or Superintendent of Survey, whether of his own motion or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any Revenue-officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or Appeals.

if any authority superior to the Collector or Superintendent of Survey pass any such order against a Revenue-officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty-five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

36. Nothing in this chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged. Liability to criminal prosecution not affected.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he have been found guilty or not. Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

CHAPTER V.

Of Land and Land-revenue.

Land.

37. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on, or beside, the same, the bed of the sea and of harbours and creeks below high-water-mark, and of rivers, streams, nalas, lakes and tanks, and all canals and water-courses, and all standing and flowing water, and all lands, wherever situated, which are not the property of individuals or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government; and it shall be lawful for the Collector, subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public or of individuals legally subsisting. Public road, etc., and lands not property of others belong to Government.

Explanation.—In this section "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year.

Lands may be assigned for special public purposes, and,

[a] **38.** Subject to the general orders of Government, it shall be lawful for Survey-officers whilst survey-operations are proceeding under Chapter VIII [b], and at any other time for the Commissioner, to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages, for free pasturage for the village-cattle, for forest-reserves, or for any other public or municipal purpose;

when assigned, not to be otherwise appropriated without sanction.

and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the Commissioner; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

Regulation of use of pasturage.

[a] **39.** The right of grazing on free pasturage-lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector with the sanction of the Commissioner.

The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

Trees.

Concession of Government rights to trees in case of settlements completed prior to Act.

[a] **40.** In villages, or portions of villages, of which the original survey-settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any Survey-officer, whether by express order made at, or about, the time of such settlement, or under any rule or general order in force at the time of such settlement, or by notification made and published at, or any time after, such settlement, shall be deemed to have been conceded to the occupant.

But in the case of settlements completed before the passing of Bombay Act I of 1865 [c] this provision shall not apply to teak, blackwood or sandalwood-trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

Concession in case of settlements completed after passing of Act.

In the case of villages or portions of villages of which the original survey-settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by

[a] As to the local repeal of ss. 38 to 40, see para. 4 of footnote on p. 303, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act.

Government, or by any Survey-officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey-settlement of the district in which such village or portion of a village is situate.

Concession in case of land taken up after completion of settlement.

When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey-settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land, which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or about the time of the original survey-settlement of the said village or portion of a village.

Government trees and forests.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle or other natural product growing on land set apart for forest-reserves under section 32 of Bombay Act I of 1865[a] or section 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as Government may from time to time direct.

Road-side trees.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of, Government, or at the expense of local funds, vest in Government.

But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the loppings of such trees, shall also vest in the said holder: Provided that the trees shall not be lopped except under the orders of the Collector.

If the holder of any land in which such trees are growing shall so desire and shall make an application to the Collector for the purpose at any time within two years from the date on which this Act shall come into operation the Collector shall deduct the strip of land covered by the said trees from his holding, and remit thenceforward the proportionate amount of land-revenue due upon the strip so deducted.

Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

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[a] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act.

Recovery of value of trees, etc., unauthorizedly appropriated.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove any other natural product which is the property of Government shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land-revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land or otherwise, and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

Regulation of supply of firewood and timber for domestic or other purposes.

[a] **44.** In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut firewood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest-reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct.

In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

Land-revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land-revenue to Government according to the rules hereinafter enacted, except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

Saving of right to levy revenue.

But nothing in this Act shall be deemed to affect the power of the legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land-revenue.

[a] **46.** All alluvial lands, newly-formed islands or abandoned river-beds which vest, under any law for the time being in force, in any holder of alienated land, shall be subject in respect of liability to the payment of land-revenue to the same privileges, conditions or restrictions as are applicable to the original holding in virtue of which such lands, islands or river-beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands or river-beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

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[a] As to the local repeal of s. 44, and modification of s. 46, see para. 4 of footnote on p. 303, *supra*.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council, to a decrease of assessment if any portion thereof, not being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvion. Right to remission in cases of diluvion.

The word "holding" in this section shall be deemed to mean a survey-number or any division of land on which a distinct or aggregate assessment has been fixed. "Holding" defined.

48. The land-revenue leviable under the provisions of this Act shall be chargeable— Lands chargeable with land-revenue.

(*a*) upon land appropriated for purpose of agriculture;

(*b*) upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c*) upon land appropriated for building-sites.

And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired. Assessment variable if purpose for which land is held is changed.

And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose. Land held rent-free for one purpose assessable if used for another.

It shall also be lawful for the Collector or for a Survey-officer, subject to rules or orders made in this behalf under section 214, to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes. Appropriation of land to certain purposes may be prohibited.

49. When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which, though nominally wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State, Land indirectly taxed to State, or

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated, land liable to occasional assessment,

the said assessment, cess, fine or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be fair equivalent of the assessment, cess, fine or tax for which it is substituted, liable to commuted assessment.

and shall not be in excess of the assessment to which the land would be ordinarily subject if no right to exemption existed in respect thereof.

Superior holder may recover commuted assessment from inferior holder.

50. Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Excess of assessment may be laid on land inadequately assessed held with it.

51. When it has been customary to levy a larger revenue, under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Assessment by whom to be fixed.

52. On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands:

Proviso.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.

Register of alienated lands.

53. A register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands the alienation of which has been established or recognized under the provisions of any law for the time being in force; and, when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said register, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Settlement of assessment with whom to be made;

[a] **54.** The settlement of the assessment of each portion of land, or survey-number, to the land-revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

[a] As to the local modification of s. 54, see para. 4 of footnote on p. 303, *supra*.

If the said person be absent, and have left no known authorized agent in the district, so that the settlement of the assessment cannot be concluded with him, such settlement may be made with the person holding under him, or in occupation of the land. when to be made with under-holder.

55. The Governor in Council may authorize the Collector or the officer in charge of a survey, or such other officer as he deems fit, to fix such rates as he may from time to time deem fit to sanction for the use, by landholders and other persons, of water the right to which vests in Government, [a] and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879 [a]. Rates for use of water.

Bom. VII of 1879.

Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land-revenue.

56. Arrears of land-revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy [b] or alienated holding, together with all rights of the occupant [b] or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the occupancy [b] or alienated holding, freed from all tenures, incumbrances and rights created by the occupant [b] or holder or any of his predecessors in title, or in anywise subsisting as against such occupant or holder, or may otherwise dispose of such occupancy [b] or alienated holding under rules or orders made in this behalf under section 214. Land-revenue a paramount charge on land.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of the land embraced within such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force. Forfeited holding may be taken possession of and otherwise disposed of.

58. Every Revenue-officer receiving a payment of land-revenue shall give a written receipt for the same. Receipts to be granted by Revenue-officers;

And every superior holder of an alienated village, or of an alienated share of a village, shall give a written receipt for every payment of rent or land- and by superior holders.

[a.a] These words and figures were substituted for the original words by Bom. Act VII of 1879, s. 2.

[b] As to the local modification of the words "occupancy" and "occupant," see para. 4 of foot-note on p. 303, *supra*.

revenue made to him by an inferior holder, and every such receipt shall be countersigned by the village-accountant, if there be any. [a]

Penalty for failure to grant receipts.

59. Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector shall be liable to a fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such inquiry may at any time be instituted by the Collector of his own motion without any complaint being preferred to him.

CHAPTER VI.

Of the Occupation of unalienated Land and the Rights of Occupants.

Occupation.

Permission required previous to taking up unoccupied land.

[b] **60.** Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mámlatdár or Mahálkari.

Penalties for unauthorized occupation of land.

[b] **61.** Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

if the land which he unauthorizedly occupies forms part of an assessed survey-number, pay the assessment of the entire number for the whole period of his occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land appropriated to the same purpose ;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules or orders made in this behalf under section 214, if he have appropriated it to any non-agricultural purpose.

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for [c] a portion [c] of a year shall be counted as for a whole year.

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[a] The last fifteen words of s. 58 have been declared not to be in force in the Pánch Mahále—see Act VII of 1885, s. 2, in Vol. I of this Code, p. 261.

[b] As to the local repeal of ss. 60 and 61, see para. 4 of foot-note on p. 303, *supra*.

[c-c] These words were substituted for the original words by Act XVI of 1895.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop he may have raised on the land shall be liable to forfeiture, and any building or other construction he may have erected thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct.

Occupancy-right to be paid for and liable to conditions.

[a] **62.** It shall be competent to the Collector, subject to such orders as may from time to time be made by the Governor in Council, to require the payment of a certain price for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 60.

Price to include price of trees.

The price of an occupancy shall include the price of the Government right to all trees not specially reserved under the provisions of section 40, and shall be recoverable as an arrear of land-revenue.

Occupancy of alluvial land which vests in Government.

[a] **63.** When it appears to the Collector that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed.

The price of an occupancy so offered shall not exceed three times the annual assessment of the land of which the occupancy is offered.

If the said occupant shall refuse such occupancy, the Collector may dispose of the same under the last preceding section without any restrictions as to the price thereof.

Temporary right to alluvial lands of small extent.

[a] **64.** When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section.

"Holding" defined.

The word "holding" in this section shall be deemed to mean a survey-number, or any division of land on which a distinct or aggregate assessment has been fixed.

[a] As to the local repeal of ss. 62 to 64, see para. 4 of foot-note on p. 303, *supra*.

Occupants' Rights.

Uses to which occupant of land for purposes of agriculture may put his land.

[a] **65.** An occupant of land appropriated for purposes of agriculture is entitled by himself, his servants, tenants, agents or other legal representatives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient occupation for the purposes aforesaid.

Procedure if occupant wishes to apply land to other purpose.

But, if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Collector's permission shall in the first place be applied for by the registered occupant.

The Collector on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after inquiry may either grant or refuse the same ; but, if the applicant receive no answer within three months from the date of the said acknowledgment, the Collector's permission may be deemed to have been granted.

Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the registered occupant.

Power to require fine in addition to special assessment.

When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Penalty for so appropriating land without permission.

[a] **66.** If any such land be so appropriated without the permission of the Collector being first obtained, or before the expiry of three months from the date of the aforesaid acknowledgment, the occupant and any tenant, or other person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so appropriated, and from the entire field or survey-number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so appropriated, such fine as the Collector may, subject to the general orders of Government, direct.

Co-occupant or tenant responsible to registered occupant in damages.

Any co-occupant or any tenant of any occupant or any other person holding under or through an occupant, who shall, without the registered occupant's consent, appropriate any such land to any such purpose, and thereby render the said registered occupant liable to the penalties aforesaid shall be responsible to the said registered occupant in damages.

[a] As to the local repeal of ss. 65 and 66, see para. 4 of foot-note on p. 303, *supra*.

[a] **67.** Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms as may be agreed on between Government and the registered occupant. Permission may be granted on terms.

[b] **68.** An occupant[c] is entitled to the use and occupation of his land for the period, if any, to which his occupancy[c] is limited, or if the period is unlimited, or a survey-settlement has been extended to the land in perpetuity, conditionally on the payment of the amounts due on account of the land-revenue for the same, according to the provisions of this Act or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms lawfully annexed to his occupancy[c]. Occupant's rights conditional.

69. The right of Government to mines and mineral-products in all unalienated land is and is hereby declared to be expressly reserved: Reservation of Government-right to mines.

Provided that nothing in this section shall be deemed to affect any subsisting rights of any occupant[c] of such land in respect of such mines or mineral-products. Proviso.

70. If by a decree or order of a competent Court it shall be adjudged that the occupant[c] is an inferior holder under another person, or that the occupancy[c] is vested in another person, or if, in the execution of such a decree or order, the interest of the occupant[c] in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale or other transfer, be deemed to be the occupant[c] and be dealt with accordingly, and, on written application being made to the Collector for the purpose, such change shall be made in the entry of the registered occupant's[c] name as the circumstances require. Decree or order of competent Court to be given effect to.

71. On the death of a registered occupant[c], the Collector shall cause the name of his eldest son, or other person appearing to be his heir, or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the registered occupant[c], and, subject to the provisions of the last preceding section, shall be dealt with accordingly. Name of heir to be registered when registered occupant dies.

But, if at any time any person shall, by production of a certificate of heirship or of a decree or order of a competent Court, satisfy the Collector that he is entitled to be the registered occupant[c] in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the Government records to be amended accordingly. When entry to be amended.

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[a] As to the local repeal of s. 67, see para. 4 of foot-note on p. 303, *supra*.

[b] As to the local repeal of s. 68, see para. 3 of foot-note on p. 303, *supra*.

[c] As to the local modification of the words "occupant," "occupancy" and "registered occupant," see para. 4 of foot-note on p. 303, *supra*.

Intestate occupancy or holding to be sold.

[a] **72.** If an occupant [b] who is either a Hindú, a Muhammadan or a Buddhist dies intestate and without known heirs, the Collector shall dispose of his occupancy [b] by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land-revenue, and the law at the time in force concerning property left by Hindús, Muhammadans or Buddhists, dying intestate and without known heirs, shall not be deemed to apply to the said occupancy [b], but only to the proceeds of such sale after deducting all arrears of land-revenue due by the deceased to Government and all expenses of the said sale.

Right of occupancy to be transferable and heritable.

[a] **73.** The right of occupancy [b] shall be deemed an heritable and transferable property subject to the provisions contained in section 56 or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become occupant [b] shall have been accepted by the Collector.

Relinquishment of Occupancy. [b]

Occupant may relinquish occupancy.

[a] **74.** An occupant [b] may, by giving written notice to the Mámlatdár or Mahálkari, relinquish his occupancy, [b] either absolutely or in favour of a specified person: provided that such relinquishment apply to the entire occupancy [b] or to whole survey-numbers, or recognized shares of survey-numbers.

An absolute relinquishment shall be deemed to have effect from the close of the current year, and notice thereof must be given before the thirty-first March in such year, or before such other date as may be from time to time prescribed in this behalf for each district by the Governor in Council.

A relinquishment in favour of a specified person may be made at any time.

When there are more occupants [b] than one, the notice of relinquishment must be given by the registered occupant [b]; and the person, if any, in whose favour an occupancy [b] is relinquished, or, if such occupancy [b] is relinquished in favour of more persons than one, the principal of such persons, must enter into a written agreement to become the registered occupant [b], and his name shall thereupon be substituted in the records for that of the previous registered occupant [b].

Relinquishment of lands paying lump-assessment.

75. When a lump-assessment is fixed upon several fields or survey-numbers in the aggregate, it shall not be lawful for the occupant [b] to relinquish as aforesaid any one or more of such fields or survey-numbers except with the previous consent of the Collector.

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[a] As to the local repeal of ss. 72 to 74, see para. 3 of foot-note on p. 303, *supra*.

[b] As to the local modification of the words "occupant," "occupancy" and "registered occupant," see para. 4 of foot-note on p. 303, *supra*.

It shall be competent to the Collector to grant or refuse his consent; if he grants it, the occupancy[a] shall be divided, and the Collector shall determine the proportional amount of land-revenue to be paid by each portion of it; and the original occupant [a], and the person, if any, in whose favour he relinquishes a portion of his occupancy [a], shall be held liable for the revenue severally assessed on their portions.

Application of sections 74, 75.

[b] **76.** The provisions of the two last sections shall apply, as far as may be, to the holders of alienated land: Provided that—

Relinquishment of land described in paragraph 1 of section 49.

(*a*) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49, until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section; and that,

Relinquishment of land described in section 51.

(*b*) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Sections 75 and 76 not to affect—responsibility of share in certain village; validity of lease from Government.

78. Nothing in sections 75 and 76 shall affect—

(*a*) the responsibility of any share in a village for the land-revenue of which the sharers are all, according to law or the custom of the village, jointly responsible, or

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government.

Occupant to continue liable for demands until occupancy relinquished.

79. The registered occupant [a] or the holder of alienated land shall continue liable for the land-revenue due on the occupancy [a] or alienated holding and for all other lawful demands of Government in respect of the same, until such time as the occupancy [a] or alienated holding is relinquished or transferred, under any of the provisions of this Act, to the name of any other person; and the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an occupancy [a] or

[a] As to the local modification of the words "occupancy," "occupant" and "registered occupant," see para. 4 of foot-note on p. 303, *supra*.

[b] As to the local repeal of s. 76, see para. 4 of foot-note on p. 303, *supra*.

alienated holding has been assigned, unless the transfer has been recorded in the revenue-records in accordance with the foregoing provisions.

Remedies against Forfeiture of Occupancies.

Right of person other than occupant to pay land-revenue to prevent forfeiture.

80. In order to prevent the forfeiture of an occupancy [a] under the provisions of section 56 or of any other law for the time being in force, through non-payment by the registered occupant [a] of the land-revenue due on account thereof, it shall be lawful for any co-occupant, tenant, mortgagee or other person interested in the continuance of the occupancy [a] to pay on behalf of such registered occupant [a] all sums due on account of land-revenue, and for the Collector to receive the same.

Collector may assist such persons in recovering the revenue from other parties liable therefor.

And in any such case the Collector may give to the person who has paid the land-revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in occupation of parts of a field or survey-number as he might legally have given had the persons so paying been the registered occupants [a] :

Proviso.

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

When Collector may make co-occupant the registered occupant, instead of selling occupancy to realize land-revenue.

81. If it shall apppear to the Collector that a registered occupant [a] has failed to pay land-revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants or other persons interested in the continuance of the occupancy, [a] or that a sale of the occupancy [a] will operate unfairly to the prejudice of such co-occupants or other persons, it shall be lawful for him, instead of selling the occupancy [a], to forfeit only the said registered occupant's [a] interest in the same and to substitute the name of any such co-occupant or other person as registered occupant [a] thereof in the revenue-records, on his payment of all sums due on account of land-revenue for the occupancy [a] ; and such person so becoming the registered occupant [a] shall have the rights and remedies with respect to all other persons in occupation provided for by section 86.

Suspension of certain Provisions of this Chapter.

Power to suspend operation of section 60 or 74.

[b] **82.** It shall be lawful for the Governor in Council, by notification in the Bombay Government Gazette, from time to time,—

(*a*) to suspend the operation of section 60 or 74, or of both, within any

[a] As to the local modification of the words "occupancy" and "registered occupant," see para. 4 of foot-note on p. 303, *supra*.

[b] As to the local repeal of s. 82, see para. 4 of foot-note on p. 303, *supra*.

prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(*b*) to cancel any such notification.

During the period for which any notification under the above clause (*a*) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

CHAPTER VII.

Of Superior and Inferior Holders.

Tenants' Rights.

Amount of rent payable by tenant.

83. A person placed, as tenant, in possession of land by another, or in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services, agreed upon between them; or, in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where, by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant, or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Presumption as to tenure.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, received, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Saving clause.

Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise) to enhance the rent payable, or services renderable, by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively originally fixed or duly enhanced as aforesaid.

Termination

84. An annual tenancy shall, in the absence of proof to the contrary, be

of annual tenancy.

presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the thirty-first March.

Notice of termination of tenancy to be given by landlord to tenant, or *vice versa*.

An annual tenancy shall require for its termination a notice given in writing by the landlord to the tenant or by the tenant to the landlord, at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E or to the like effect.

Superior holders' dues by whom to be collected.

[a] **85.** It shall be incumbent on every superior holder of an alienated village, and on every superior holder of an alienated share of a village in which there exists an hereditary patel and village-accountant, to receive his dues on account of rent or land-revenue from the inferior holders through the said village-officers.

Any such superior holder demanding or receiving payment from any inferior holder of any rent or land-revenue otherwise than through the said village-officers shall, on conviction in a summary inquiry before the Collector, forfeit to Government three times the amount of the sum so demanded or received.

Every such hereditary patel or accountant shall be bound to receive and account to the said superior holder for all sums paid to or recovered by him on account of the said superior holder; and, on his or their failure to do the same, the superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

Recovery of Superior Holders' Dues.

Superior holders entitled to assistance in recovery of dues from inferior holders, etc.

86. Superior holders shall, upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings, under the same rules, except that contained in section 137, and in the same manner, as prescribed in Chapter XI [b] for the realization of land-revenue by Government:

Application for assistance when to be made.

Provided that such application be made within the revenue-year or within the year of tenancy in which the said rent or land-revenue became payable.

Collector how to proceed on such application.

87. On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer, fixing a day for enquiry into the case.

[a] S. 85 has been declared not to be in force in the Pánch Mahále—see Act VII of 1885, s. 2, in Vol. I of this Code, p. 261. As to the local repeal of the section, see para. 4 of foot-note on p. 303, *supra*.

[b] Words repealed by Bom. Act III of 1886 are omitted.

On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land-revenue as appears to him upon the evidence before him to be lawfully due.

But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates has been assessed under the provisions of Chapter VIII [a] or any survey-settlement confirmed by section 112, grant assistance to the extent only of the assessment so fixed upon the said land.

Assistance may be refused or granted in part.

Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

Civil suit not barred.

Grant of special Powers to Holders of alienated Lands.

[b] **88.** It shall be lawful for the Governor in Council at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely) :—

Governor in Council may, by commission, confer on holders of alienated lands power—

(*a*) to demand security for the payment of the land-revenue or rent due to him, and, if the same be not furnished, to take such precautions as the Collector is authorized to take under sections 141 to 143;

to demand security for land-revenue;

(*b*) to attach the property of persons making default in the payment of such land-revenue or rent, as aforesaid;

to attach defaulter's property;

(*c*) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable;

to fix time at, and instalments in, which revenue due shall be paid;

(*d*) to exercise the powers of a Collector under sections 65 and 66;

to exercise Collector's powers;

(*e*) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided;

to receive notices of relinquishment;

(*f*) to take measures for the maintenance and repair of boundary-marks in the manner provided for Survey-officers in section 122:

to arrange for repair of boundary-marks.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] As to the local modification of s. 88, see para. 4 of foot-note on p. 303, *supra*.

Proviso.

Provided that the powers contemplated in clauses (*c*) to (*f*) shall be conferred only on holders of lands to which a survey-settlement has been extended under the provisions of section 216.

Form of such commission.

[a] **89.** Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of Government; and a commission may, if the Governor in Council see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

Reference to be made by holder of commission to Collector.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made appear to the Collector, after such inquiry as he may deem fit to make, to be just, he shall give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186.

But if the holder of the commission is invested, under Regulation XIII of 1830 [b], with civil jurisdiction and with power to execute his own or his agent's decrees, the sale shall be conducted by him and not by the Collector and his subordinates.

When compulsory process shall cease.

91. All compulsory process shall cease—

on the defaulter's paying or tendering the amount demanded of him under protest, or

on his furnishing, either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of Schedule D, or to similar effect.

Penalty for continuing compulsory process.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable, on conviction in a summary inquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

Arrears to which power under commission to extend.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

Holder of commission not to enforce unusual or excessive demand.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid previously to the date of such demand, or of what he may have contracted in writing to pay.

[a] As to the local modification of s. 89, see para. 4 of foot-note on p. 303, *supra*.
[b] Printed in Vol. I of this Code, p. 46.

In the event of a dispute the Collector shall hold a summary inquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

Penalty for so doing.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land-revenue.

Holder of commission may establish right to enhanced rent in Civil Court.

[a] **94.** Nothing in the last section shall be deemed to prevent a holder of alienated land from instituting a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or re-settle the revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or from levying the sum ascertained to be due in accordance with the decree in any such suit in the manner hereinbefore mentioned.

CHAPTER VIII.

Of Survey-settlements and the Partition of Estates.

Power to introduce revenue-survey into any part of Presidency.

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue-survey.

Such survey may extend to the lands of any village, town or city generally, or to such land only as the Governor in Council may direct; and, subject to the orders of the Governor in Council, it shall be lawful for the officers conducting any such survey to except from the survey-settlement any land to which it may not seem expedient that such settlement should be applied.

Control of revenue-survey.

The control of every such revenue-survey shall vest in, and be exercised by, the Governor in Council.

Survey-officer may require, by general notice or by summons, suitable service from

96. It shall be lawful for the Survey-officer deputed to conduct or take part in any such survey to require, by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person or by legally constituted agent duly instructed and able to answer all material questions, and the presence of táluqá and village officers, who in their several

[a] As to the local modification of s. 94, see para. 4 of foot-note on p. 303, *supra*.

holders of land, etc.

stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey and such service in connection therewith as may not be inconsistent with the position of the individual so called on.

Assistance to be given by holders and others in measurement or classification of lands.

97. It shall be lawful for the Survey-officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and, in the event of a necessity for employing hired labour for this or other similar object incidental to survey-operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed, for collection as a revenue-demand.

Survey-numbers not to be of less extent than minimum fixed.

98. Except as hereinafter provided, no survey-number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government.

A record of the minima so fixed shall be kept in the Mámlatdár's office in each táluqá, and shall be open to the inspection of the public at reasonable times.

Exception.

These provisions shall not apply to survey-numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance in this behalf; and any survey-number separately recognized in the survey-records shall be deemed to have been authorizedly made, whatever be its extent.

Provisions applicable to recognized shares of survey-numbers.

99. Recognized shares of survey-numbers shall be subject to the same provisions of this Act as are applicable to entire survey-numbers, except—

(*a*) that it shall not be obligatory to demarcate such shares separately, and

[a] (*b*) that if any such share is relinquished by the occupant [b] absolutely under the provisions of section 74, the occupancy [b] thereof shall be offered to the occupants [b] of the other shares of the same survey-number in order of the [c] relative largeness of the amounts payable by them respectively on account of the assessment of their said shares, and that, in the event of their all refusing the occupancy [b] of the said share, the assessment thereon shall, until such

[a] As to the local repeal of s. 99, cl. (*b*), see para. 3 of foot-note on p. 303, *supra*.
[b] As to the local modification of the words "occupant" and "occupancy," see para. 4 of foot-note on p. 303, *supra*.
[c] "The" was substituted for "their" by Act XVI of 1895.

time as the entire number is relinquished by them, be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

Officer in charge of survey to fix assessments.

100. Subject to rules or orders made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land-revenue at his discretion on all lands within the local operation of an order made under section 95, not wholly exempt from land-revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

Regard to be had to proviso to section 52. Proviso.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52 :

But nothing in this section shall be deemed to prevent the Survey-officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land-revenue or on lands especially excepted under section 95 from the survey-settlement, or from dividing all such lands to which the survey extends into survey-numbers.

Assessment may be on land, or on means of irrigation, etc.

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is levied [a] under section 55 [b] or under the Bombay Irrigation Act, 1879, [b] or in any other manner whatsoever that may be sanctioned by Government.

Bom. VII of 1879.

Assessments not leviable without sanction of Government. But may be fixed, with or without modification, for term of years.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands.

Introduction of survey-settlement how made.

[c]**103.** When in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer, or of the Collector or Assistant or Deputy Collector, publicly to announce, or to cause to be announced, the assessment fixed on each survey-number.

The said officer, or the Collector or Assistant or Deputy Collector shall, at a reasonable time beforehand, cause public notice to be given, in such

[a] "Levied" was substituted for "leviable" by Bom. Act VII of 1879, s. 2.
[b-b] This reference was inserted by Bom. Act VII of 1879, s. 2.
[c] As to the local modification of s. 103, see para. 3 of foot-note on p. 303, *supra*.

manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey-settlement shall be held to have been introduced.

Excess assessment not to be levied in year in which survey-settlement is introduced;

104. In the year in the course of which a survey-settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

nor in following year if number resigned that year.

[a] In the year next following that in which any [b] original or [b] revised survey-settlement has been introduced, any occupant [c] who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey-numbers held by him shall, on resigning such number in the manner prescribed by sections 74 and 76 on or before the thirty-first March, receive a remission of the increase so imposed.

Fixing of assessment under section 102 limited to ordinary land-revenue.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land-revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village and district roads, bridges, tanks, wells, accommodation for travellers and the like, or of any rate for the use of water which may be imposed under the provisions of section 55 [d] or of the Bombay Irrigation Act, 1879. [d] Bom. VII of 1879.

Government may direct fresh survey and revision of assessment.

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue-survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102:

[e] Provided that, when a general classification of the soil of any area has been made a second time, or when any original classification of any area has

[a] As to the local repeal of s. 104, para. 2, see para. 3 of foot-note on p. 303, *supra*.
[b-b] These words were inserted by Act XVI of 1895.
[c] As to the local modification of the word "occupant," see para. 4 of foot-note on p. 303, *supra*.
[d-d] This reference was added by Bom. Act VII of 1879, s. 2.
[e] This proviso was substituted for the original clause by Bom. Act IV of 1886, s. 1.

been approved by the Governor in Council as final, no such classification shall be again made with a view to the revision of the assessment of such area.

Revision of assessment.

[a] **107.** In revising assessments of land-revenue regard shall be had to the value of land and, in the case of land used for the purposes of agriculture, to the profits of agriculture: Provided that, if any improvement has been effected in any land during the currency of any previous settlement made under this Act, or under Bombay Act I of 1865 [b], by or at the cost of the holder thereof, the increase in the value of such land or in the profit of cultivating the same, due to the said improvement, shall not be taken into account in fixing the revised assessment thereof.

Preparation of statistical and fiscal records.

108. It shall be the duty of the Survey-officer, on the occasion of making or revising a settlement of land-revenue, to prepare a register, to be called "the settlement-register," showing the area and assessment of each survey-number, together with the name of the registered occupant [c] of such survey-number and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

Officers to correct clerical and admitted errors in settlement-register, and

[d] **109.** The Survey-officer, or, if the survey-settlement have been introduced under the provisions of section 103 by the Collector or Assistant or Deputy Collector, the Collector or Assistant or Deputy Collector, shall at any time correct or cause to be corrected any clerical errors, and any errors which the parties interested admit to have been made in the settlement-register;

inquire into and pass orders on applications for mutation of names.

he shall also receive and enquire into all applications made to him at any time within two years after the introduction of the survey-settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been made, whether through fraud, collusion, oversight or otherwise, shall correct or cause the same to be corrected, notwithstanding that all the parties interested do not admit the error;

but he shall not receive any such application at any time after two years from the date of the introduction of the survey-settlement, unless good cause be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any application made after the said period of two years, except with the previous sanction of Government.

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[a] This section was substituted for the original s. 107 by Bom. Act IV of 1886, s. 2.
[b] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act.
[c] As to the local modification of the word "registered occupant," see para. 4 of foot-note on p. 303, *supra*.
[d] As to the local repeal of s. 109, see para. 4 of foot-note on p. 303, *supra*.

Collector to keep survey-records and frame village-records in accordance therewith; and to register changes, etc.

[a] **110.** The Collector shall keep the settlement-register and such other records prepared by the Survey-officer as Government shall direct, and shall cause the village-records and accounts to be prepared in accordance therewith; he shall not make any alterations or corrections in the settlement-register, but shall cause to be registered in the village-records and accounts all changes that may take place, and anything that may affect any of the rights or interests therein recorded.

Revenue-management of villages or estates not belonging to Government that may be temporarily under Government management.

[b] **111.** In the event of any alienated village or estate coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof at rates determined by means of a survey-settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers: Provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Maintenance of existing settlements of land-revenue.

[c] **112.** Existing survey-settlements of land-revenue made, approved and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be, in force, subject to the provisions of this Act.

Partition.

Partition estate paying revenue to Government.

[b] **113.** The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely):—

(1) the estate shall be divided as far as possible according to survey-numbers without sub-dividing any number; but, if the partition cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provisions of section 98;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible, according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provisions of section 98, shall be made over

[a] As to the local repeal of s. 110, see para. 4 of foot-note on p. 303, *supra*.
[b] As to the local modification of ss. 111 and 113, see para. 4 of foot-note on p. 303, *supra*.
[c] As to the local repeal of s. 112, see para. 3 of foot-note on p. 303, *supra*.

to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of as the Collector thinks fit;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue-demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of certain estates by Collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khotí estate into which a revenue-survey has been introduced [a], or in a táluqdárí estate [a], consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers:

Provided that no such partition shall be made, unless—

(*a*) all the co-sharers are agreed as to the extent of their respective rights in the estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under rule (*3*) of the last preceding section from all the co-sharers in the estate divided.

Sub-division of numbers at time of revision of survey.

115. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98, and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey-number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as registered occupants [b] of such sub-divisions in the settlement-register separately.

Separate demarcation of land appropriated under section 65 or 67.

[c] **116.** When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time notwithstanding the provisions of section 98.

[a-a] These words are repealed in the districts of Ahmedabad, Kaira, Broach and the Pánch Mahâls by Bom. Act VI of 1888, s. 3.

[b] As to the local modification of the words "registered occupants," see para. 4 of foot-note on p. 303, *supra*.

[c] As to the local repeal of s. 116, see para. 4 of foot-note on p. 303, *supra*.

Bombay Act V of 1862 not affected.

117. Nothing in section 113, 115 or 116 shall affect the provisions of Bombay Act V of 1862[a].

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determination of village-boundaries.

[b] **118.** The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined, by Survey-officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Village-boundaries may be settled by agreement.

Rule 1.—When the patels and other village-officers of any two or more adjoining villages, and in the case of an alienated village the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon.

And any village-boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the patels and other village-officers, and, in the case of an alienated village, the holder thereof, or his duly constituted agent, do not agree to fix the boundaries of their respective villages in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a Survey-officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

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[a] Printed *supra*, p. 4.
[b] As to the local modification of s. 118, see para. 3 of foot-note on p. 303, *supra*.

Determination of field-boundaries.

[a] **119.** If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village-officers then present, it may be laid down as pointed out by the holder or person in occupation, and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the Survey-officer according to the village-records, and according to occupation as ascertained from the village-officers and the holders of adjoining lands, or on such other evidence or information as the Survey-officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey-records have been handed over to the Collector, a dispute arise concerning the boundary of any survey-number, it shall be determined by the Collector, who shall be guided in the case of survey-numbers by the survey-records, if they afford satisfactory evidence of the boundary previously fixed, and, if not, by such other evidence as he may be able to procure.

Settlement of boundary-disputes by arbitration.

120. If the several parties concerned in a boundary-dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and, if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer, or, if the said officer be a Survey-officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the Code of Civil Procedure[b].

XIV of 1882.

If arbitration fail, Survey-officer to settle dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a Survey-officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

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[a] As to the local modification of s. 119, see para. 3 of foot-note on p. 303, *supra*.

[b] This reference to s. 520 of Act X of 1877 should now be read as applying to s. 520 of Act XIV of 1882—see s. 3 of the latter Act. (For Act XIV of 1882, see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

Effect of settlement of boundary.

121. The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative :—

(*a*) of the proper position of the boundary-line or boundary-marks, and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Boundary-marks.

Construction and repair of boundary-marks of villages and survey-numbers.

122. It shall be lawful for any Survey-officer, authorized by a Superintendent of Survey or Settlement-officer, to cause to be constructed or repaired boundary-marks of villages or survey-numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary-marks.

Such officer may require landholders to construct or repair their boundary-marks, by a notification which shall be posted in the chauri or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers to construct or repair, within a specified time, the boundary-marks of their respective survey-numbers, and, on their failure to comply with the requisition so made, the Survey-officer shall then construct or repair them, and assess all charges incurred thereby as hereinbefore provided.

General notification to be sufficient notice of requisition.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey-numbers within the limits of the lands to which the survey extends.

Description of boundary-marks.

The size, material and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for maintenance of boundary-marks.

[a] **123.** Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the Revenue-officers in cases of alteration, removal or disrepair. It shall be the duty of the village-officers and servants to prevent the destruction or unauthorized alteration of the village-boundary-marks.

Collector to have charge of boundary-marks after introduction of survey-settlement.

124. When the survey-settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve on the Collector, and it shall be his duty to take measures for their maintenance and repair, and for this purpose the powers conferred on Survey-officers by section 122 shall vest in him.

[a] As to the local modification of s. 123, see para. 3 of foot-note on p. 303, *supra*.

Penalty for injuring boundary-marks.

125. Any person convicted, after a summary inquiry before the Collector, or before a Survey-officer, Mámlatdár or Máhálkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X.

Of Lands within the Sites of Villages, Towns and Cities.

Fixing of Sites.

Limits of sites of villages, towns and cities how fixed.

126. It shall be lawful for the Collector or for a Survey-officer acting under the general or special orders of Government to determine what lands are included within the site of any village, town or city, and to fix, and from time to time to vary, the limits of the same, respect being had to all subsisting rights of landholders.

Exemption from Land-revenue.

Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites.

[a] **127.** Act XI of 1852 [b], and Bombay Acts II [c] and VII [d] of 1863, shall be deemed to be applicable, and to have always been applicable in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of Bombay Act IV of 1868 [e] which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Acts shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

Existing exemption when continued in case of certain lands.

[a] **128.** The existing exemption from payment of land-revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry into titles has been made under the provisions of Bombay Act IV of 1868 [e] shall be continued—

1st, if such lands are situated in any town or city where there has been

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[a] As to the local repeal of ss. 127 and 128, see para. 4 of foot-note on p. 303, *supra*.
[b] Printed in Vol. I of this Code, p. 60.
[c] Printed *supra*, p. 17.
[d] Printed *supra*., p. 65.
[e] Bom. Act IV of 1868 is repealed by s. 2 of this Act.

in former years a survey which Government recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land-revenue;

2nd, if such lands have been held wholly or partially exempt from the payment of land-revenue for a period of not less than five years before the application of Bombay Act I of 1865 [a] or IV of 1868 [b] to such town or city;

3rd, if such lands, for whatever period held, have been held wholly or partially exempt from payment of land-revenue under a deed of grant or of confirmation issued by an officer whom Government recognize as having been competent to issue such deed.

Right to exemption determined by Collector.

[c] **129.** Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Occupancy-price payable in addition to assessment, in certain cases.

[c] **130.** In towns and cities to which section 128 applies, the holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorizedly occupied for a period commencing less than two years before Bombay Act I of 1865 [a] or IV of 1868 [b] was applied to the town or city in which the said lands are situate, shall be liable to pay the price of the occupancy of the said lands in addition to the land-revenue assessed thereupon.

The said occupancy-price shall be determined according to the provisions of section 62.

Miscellaneous.

Survey of land in such sites how conducted.

[c] **131.** If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII and IX of this Act:

Proviso.

Provided that nothing contained in sections 96, 97, 101, 103, 104 or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

In certain

[c] **132.** When a survey is extended under the provisions of the last pre-

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[a] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act.
[b] Bom. Act IV of 1868 is repealed by s. 2 of this Act.
[c] As to the local repeal of ss. 129 to 132, see para. 4 of foot-note on p. 303, *supra.*

ceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey-fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by Government: Provided that the said fee shall in no case exceed rupees five for each survey-number.

cases survey-fee to be charged.

The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

In any town or city in which Bombay Act IV of 1868[a] was in force before the passing of this Act, a similar public notice shall be issued by the Collector within six months after the passing of this Act [b].

[c]**133.** Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, specifying by plan and description the extent and conditions of his holding:

Sanad to be granted without extra charge.

Provided that, if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Proviso.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

[c]**134.** If any land within the site of any village, town or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be appropriated to any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.

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[a] Bom. Act IV of 1868 is repealed by s. 2 of this Act.
[b] Portion repealed by Act XVI of 1895 is omitted.
[c] As to the local repeal of ss. 133 and 134, see para. 4 of foot-note on p. 303, *supra*.

Limitation of certain suits.

[a] **135.** Any suit instituted in a Civil Court to set aside any order passed by the Collector under section 37 or 129, in respect of any land situate within the site of a village, town or city, shall be dismissed, although limitation has not been set up as a defence, if it has not been instituted within one year from the date of the order.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE-DEMANDS.

Responsibility for Land-revenue.

Primary responsibility.

[b] **136.** The registered occupant shall be primarily responsible to Government for the land-revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land-revenue of alienated land.

Recovery of land-revenue if person primarily responsible fails to pay it.

On failure of the person primarily responsible to Government for the land-revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the inferior holder or person in actual occupation of the land.

Credit allowed to inferior holder for recoveries made from him.

When land-revenue is recovered from any such co-occupant, co-sharer, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the registered occupant or superior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Priority of Government Claim for Land-revenue.

Claims of Government to have precedence over all others.

137. The claim of Government to any moneys recoverable under the provisions of this chapter shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land or the holder thereof.

Liability of crop for revenue of land.

138. In all cases the land-revenue for the current year, of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

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[a] As to the local repeal of s. 135, see para. 4 of foot-note on p. 303, *supra.*

[b] As to the local modification of s. 136, see para. 3 of foot-note on p. 303, *supra.* As to the local repeal of the section, see para. 4 of the same foot-note.

Land-revenue when Leviable.

139. The land-revenue shall be leviable on or at any time after the first day of the revenue-year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Land-revenue may be levied at any time during the revenue year.

Precautionary Measures for the Security of the Land-revenue.

140. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a Civil Court or other public authority or by private agreement, the Collector may prevent its being removed from the land until the current year's revenue of the said land has been paid, whether the date fixed for the payment of the same, under the provisions hereinafter contained, has yet arrived or not.

Removal of crop which has been sold, etc., may be prevented until revenue paid.

But in no case shall a crop, or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than one year's revenue.

141. It shall be lawful for the Collector, in order to secure the payment of the land-revenue by enforcement of the lien of Government on the crop—

To secure land-revenue, Collector may prevent

(*a*) to require that the crop growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt; — reaping of crop, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid; — removal thereof, or

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs. — place watchmen over it.

142. The Collector's orders under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

Collector's orders under last section how made known.

If the order be general, it shall be made known by public proclamation to

be made by beat of drum in the village and by affixing a copy of the order in the chaurí or some other public building in the village.

If it be to individual holders, a notice thereof shall be served on each holder concerned.

Penalty for disobedience of order.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the Indian Penal Code [a] abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed. XLV of 1860.

Reaping, etc., not to be unduly deferred.

Crop when to be released.

143. The Collector shall not defer the reaping of the crop, nor prolong its deposit, unduly, so as to damage the produce; and, if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this chapter, or take such portion thereof as he may deem fit, for sale under the provisions of this chapter applicable to sales of moveable property in realization of the revenue due and of all legal costs, and release the rest.

Temporary attachment and management of village or share of village.

144. If owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land-revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Powers of manager, and disposal of surplus profits.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payments of the land-revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, shall be kept in desposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector, subject to the orders of the Commissioner, may direct.

Precautionary measures to be relinquished on security being furnished.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which, it is payable under the provisions hereinafter contained.

Regulation of Payment of Land-revenue.

146. Land-revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such instalments, to such persons and at such places, as may from time to time be determined by the orders of Government.

Government to determine dates, etc., on which land-revenue shall be payable.

Defaulters.

[a]**147.** Any sum not so paid becomes thereupon an arrear of land-revenue, and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

Arrear.

Defaulters.

148. If any instalment of land-revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to proceed to levy at once the entire balance of land-revenue due by the defaulter for the current year, in addition to such charge as a penalty or by way of interest as may be authorized according to a scale to be fixed from time to time, under the orders of the Governor in Council.

Liabilities incurred by default.

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector, shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear of the amount of land-revenue due, and of the person who is the defaulter.

Certified account to be evidence as to arrears.

On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this chapter as if the demand arose in his own district.

Collectors may realize each other's demands.

A similar statement of account, certified by the Collector of Bombay, may be proceeded upon as if certified by the Collector of a district under this Act.

Recovery of Arrears.

150. An arrear of land-revenue may be recovered by the following processes :—

Process for recovery of arrears.

(*a*) by serving a written notice of demand on the defaulter, under section 152;

[a]—As to the local modification of s. 147, see para. 4 of foot-note on p. 303, *supra*.

[a] (*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due, under section 153;

(*c*) by distraint and sale of the defaulter's moveable property, under section 154;

(*d*) by sale of the defaulter's immoveable property, under section 155;

(*e*) by arrest and imprisonment of the defaulter, under sections 157 and 158;

[b] (*f*) in the case of alienated holdings consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages, under sections 159 to 163.

Revenue-demands of former years how recoverable.

Proviso.

151. The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year:

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year.

Notice of Demand.

When notice of demand may issue.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of Occupancy [c] *or alienated Holding.*

Occupancy or alienated holding for which arrear is due may be forfeited.

[a] **153.** The Collector may declare the occupancy [c] or alienated holding in respect of which an arrear of land-revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts.

Sale of Defaulter's Property.

Distraint and sale of defaulter's moveable property.

154. The Collector may also cause the defaulter's moveable property to be distrained and sold.

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[a] As to the local repeal of s. 150, cl. (*b*), and s. 153, see para. 3 of foot-note on p. 303, *supra*.

[b] As to the local modification of s. 150, cl. (*f*), see paras. 3 and 4 of foot-note on p. 303, *supra*.

[c] As to the local modification of the word "occupancy," see para. 4 of foot-note on p. 303, *supra*.

Such distraints shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct. By whom to be made.

155. The Collector may also cause the right, title and interest of the defaulter in any immoveable property other than the land on which the arrear is due to be sold. Sale of defaulter's immoveable property.

XIV of 1882. **156.** All such property as is by the Code of Civil Procedure [a] exempted from attachment or sale in execution of a decree shall also be exempt from distraint or sale under either of the last two preceding sections. Exemption from distraint and sale.

The Collector's decision as to what property is so entitled to exemption shall be conclusive.

Arrest and Imprisonment.

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mámlatdár or Mahálkari, unless the revenue due, together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention is sooner paid. Arrest and detention of defaulter.

If, on the expiry of ten days, the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district: Imprisonment in civil jail.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter. Limit to detention of defaulters.

158. The Commissioner may, with the sanction of the Governor in Council, from time to time declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the costs of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment. Power to declare by whom power of arrest to be exercised.

Attachment of Villages.

159. If the holding in respect of which an arrear is due consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village Power to attach defaulter's village, and take it under management.

[a] The reference to Act X of 1877 is altered in accordance with Act XIV of 1882, s. 3. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Lands of such village to revert free of incumbrances.

[a] **160.** The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as are interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

Powers of manager.

and the Collector or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Application of surplus-profits.

161. All surplus-profits of the lands attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111 [b], shall be applied in defraying the said arrear.

Restoration of village so attached.

[c] **162.** The village or share of a village so attached shall be released from attachment and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the first of August next after the attachment—

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

Disposal of surplus-receipts.

The Collector shall make over to the superior holder the surplus-receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs; but such surplus-receipts, if any, of previous years shall be at the disposal of Government.

Village, etc., to vest in Government,

[d] **163.** If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if, after

[a] As to the local modification of s. 160, see para. 4 of foot-note on p. 303, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] As to the local modification of s. 162, see paras. 3 and 4 of foot-note on p. 303, *supra*.
[d] As to the local repeal of s. 163, see para. 4 of foot-note on p. 303, *supra*.

such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all incumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

if not redeemed within twelve years.

Stay of Proceedings.

164. Any defaulter detained in custody or imprisoned shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D, satisfactory to the Collector or to such other person or officer.

Processes to be stayed on security being given;

And any person against whom proceedings are taken under this chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

or on amount demanded being paid under protest.

Procedure in respect of Sales.

165. When any sale of either moveable or immoveable property is ordered under the provisions of this chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and, in the case of moveable property, whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Procedure in effecting sales.

Such proclamation shall be made by beat of drum at the head-quarters of the táluqá, and in the village in which the immoveable property is situate, if the sale be of immoveable property; if the sale be of moveable property, the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

Proclamation of sales.

166. A written notice of the intended sale of immoveable property, and of the time and place thereof, shall be affixed in each of the following places, namely, the office of the Collector of the district, the office of the Mámlatdár or Mahálkari of the táluqá or mahál in which the immoveable property is

Notification of sales.

situate, the chauri or some other public building in the village in which it is situate, and the defaulter's dwelling-place.

In the case of moveable property, the written notice shall be affixed in the Mámlatdár's or Mahálkari's office, and in the chauri or some other public building in the village in which such property was seized.

The Collector may also cause notice of any sale, whether of moveable or immoveable property, to be published in any other manner that he may deem fit.

Sale by whom to be made.

167. Sales shall be made by auction by such persons as the Collector may direct.

Time when sale may be made.

No such sale shall take place on a Sunday or other general holiday recognized by Government, nor until after the expiration of at least thirty days in the case of immoveable property, or seven days in the case of moveable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

Postponement of sale.

The sale may from time to time be postponed for any sufficient reason.

Sale of perishable articles.

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

When sale may be stayed.

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale to the person appointed under section 146 to receive payment of the land-revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 164, the sale shall be stayed.

Sales of moveable property when liable to confirmation.

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of moveable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf.

In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

Mode of payment for moveable pro-

171. When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as

the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold.

perty when sale is concluded at once.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

172. When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Payment when sale is subject to confirmation.

The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office-day after such day.

On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

173. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Deposit by purchaser in case of sale of immoveable property.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immoveable property took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office-day after such fifteenth day.

Purchase-money when to be paid.

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of moveable or immoveable property, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Effect of default.

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land-revenue.

Liability of purchaser for loss by re-sale.

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale

Notification before re-sale.

takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

Application to set aside sale.

178. At any time within thirty days from the date of the sale of immoveable property application may be made to the Collector to set aside the sale on the ground of some material irregularity or mistake, or fraud, in publishing or conducting it;

but, except as otherwise is provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

Order confirming or setting aside sale.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale: Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

On confirmation of sale, purchaser to be put in possession.

181. After a sale of any occupancy [a] or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land included in such occupancy [a] or alienated holding, and shall cause his name to be entered in the revenue-records as occupant[a] or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the occupancy[a] or alienated holding to which the certificate refers.

Certificate of purchase.

Bar of suit against certified purchaser.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

[a] As to the local modification of the words "occupancy," and "occupant," see para. 4 of foot-note on p. 303, *supra*.

(Chap. XI.—Of the Realization of the Land-revenue and other Revenue-demands. Secs. 183-187.)

183. When any sale of moveable property under this chapter has become absolute, and when any sale of immoveable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue,

Application of proceeds of sale.

and the surplus (if any) shall be paid to the person whose property has been sold.

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government.

Expenses of sale how calculated.

184. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

Payment of surplus to creditors.

185. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the sale.

Liability of purchaser for revenue.

186. If any claim shall be set up by a third person to moveable property attached under the provisions of this chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice.

Claims to attached moveable property how disposed of.

If the claim be admitted wholly or partly, the property shall be dealt with accordingly.

Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Application of the Provisions of this Chapter.

187. All sums due on account of land-revenue, all quit-rents, nazránas, succession-duties, transfer-duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land-revenue;

What moneys leviable under provisions of chapter.

and all moneys due by any contractor for the farm of customs-duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement;

and also all sums declared by this or by any other Act or Regulation at the time being in force to be leviable as an assessment, or as a revenue-demand, or as an arrear of land-revenue,

shall be levied under the foregoing provisions of this chapter.

Sureties liable as revenue-defaulters.

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money, shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this chapter as revenue-defaulters.

On resumption of farm, no payments to contractor in advance admitted.

And, in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation.

CHAPTER XII.

PROCEDURE OF REVENUE-OFFICERS.

Subordination of Revenue-officers.

188. In all official acts and proceedings a Revenue-officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

Power to summon persons to give evidence and produce documents.

189. Every Revenue-officer not lower in rank than a Mámlatdár's first kárkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make.

A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: Provided that exemptions under sections 640 and 641 of the Code of Civil Procedure [a] shall be applicable to requisitions for attendance under this section; XIV of 1882.

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

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[a] This reference to ss. 640 and 641 of Act X of 1877 should now be read as applying to ss. 640 and 641 of Act XIV of 1882—see s. 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal; Summons to be in writing, signed and sealed;

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence. how to be served.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section. Service in district other than that of issuer.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any; Mode of serving notices.

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice. Notice not void, for error.

192. In any formal or summary inquiry, if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section 160[a]. Procedure for procuring attendance of witnesses.

XIV of 1882.

Formal Inquiry.

193. In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him. Mode of taking evidence in formal inquiries.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record. Taking evidence given in English. Translation to be on record.

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[a] This reference to s. 160 of Act X of 1877 should now be read as applying to s. 160 of Act XIV of 1882—see s. 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

Writing and explanation of decisions.

194. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed.

Summary Inquiry.

Summary inquiries how conducted.

195. In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all or any of the rules applicable to a formal inquiry, if he deem fit.

Formal and summary inquiries to be deemed judicial proceedings.

196. A formal or summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code [a], and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry. XLV of 1860.

Hearing and decision. Notice to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how conducted.

197. An inquiry which this Act does not require to be either formal or summary, or which any Revenue-officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, etc., how obtained.

198. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them, on due application being made for the same, subject to

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

such charges for copying, etc., as may, from time to time, be authorized by Government.

199. Whenever it is provided by this Act that a defaulter or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Arrest of defaulter to be made upon warrant.

200. It shall be lawful for any Revenue-officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially or wholly exempt from the same:

Power of Revenue-officer to enter upon lands or premises for purposes of measurement, etc.

Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Proviso.

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Power to determine language of district.

202. Whenever it is provided by this or by any other Act for the time being in force that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, namely:—

Mode of evicting person wrongfully in possession of land.

by serving a notice on the person or persons in possession, requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and,

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance

commit him to close custody in the office of the Collector or of any Mámlatdár or Mahálkari, or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district, for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

Appeals and Revision.

Appeal from order passed by Revenue-officer to his superior.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a Revenue-officer under this Act or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

Appeal to Governor in Council.

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Limitation of appeals.

205. No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Admission of appeal after period of limitation.

206. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision where last day for appeal falls on Sunday or holiday.

207. Whenever the last day of any period provided in this chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

What to accompany petition of appeal.

208. Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

209. The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Powers of appellate authority.

210. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to suspend execution of order of subordinate officer.

211. The Governor in Council and any Revenue-officer, not inferior in rank to a Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry, or the proceedings of any subordinate Revenue-officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

Power to call for and examine records and proceedings of subordinate officers;

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely:—an Assistant or Deputy Collector, a Mámlatdár, a Mahálkari, an [a] Assistant Superintendent of Survey, and an Assistant Settlement-officer.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit.

and to pass orders thereupon.

212. Wherever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

Explanation as to decisions or orders expressly made final.

The Governor in Council alone shall be competent to modify, annul or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and survey-records, and all village-accounts and land-registers shall be open to the inspection of the public at reasonable hours, and certified extracts from such

Maps, land-registers and village-accounts, etc., open to inspection.

[a] "An" was substituted for "and" by Act XVI of 1895.

Extracts and copies to be given.

maps, registers and accounts, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame rules.

[a] **214.** The Governor in Council may from time to time make, and from time to time vary or rescind, rules or orders not inconsistent with this Act—

(*a*) determining the qualifications to be required of all members of establishments appointed under section 21;

(*b*) regulating the power of fining, reducing, suspending and dismissing Revenue-officers under section 32;

(*c*) prescribing the purposes to which land liable to the payment of land-revenue may be appropriated under section 48;

(*d*) regulating the system and manner of assessing land to the land-revenue under sections 52 and 100;

(*e*) for the disposal of forfeited occupancies or alienated holdings under section 56;

(*f*) fixing the maximum amount of fine leviable under section 61 when land which has been unauthorizedly occupied is appropriated to any non-agricultural purpose;

(*g*) for the administration of any survey-settlement;

(*h*) prescribing the mode, form and manner in which appeals under Chapter XIII [b] shall be drawn up and presented;

(*i*) generally for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*c*), (*d*), (*e*), (*f*) or (*i*) may be made either generally or in any particular instance.

Rules to be published.

215. All general rules or orders made by the Governor in Council under the last preceding section shall be published, and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

It shall be lawful for the Governor in Council, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment [b], or five hundred rupees fine, or both.

Chapters VIII to X how far applicable to alienated villages.

[c] **216.** Save as is otherwise provided in section 111 and hereinafter in this section, the provisions of Chapters VIII to X [b] shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such

[a] As to the local modification of s. 214, see para. 4 of foot-note on p. 303, *supra.*
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] As to the local repeal of s. 216, see para. 4 of foot-note on p. 303, *supra.*

village, and of determining any disputes relating thereto. But the provisions of the said chapter shall be applicable to—

(*a*) all unalienated lands situated within the limits of an alienated village;

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated;

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any, above such amount, belongs to Government.

But it shall be lawful for the Governor in Council, on an application in writing being made by the holder of any such village to that effect, to authorize the extension of all or any of the provisions of the said chapters to any such village.

Occupants in alienated villages.

[a] **217.** When a survey-settlement has been introduced, under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act relating to occupants and registered occupants shall be applicable, so far as may be, to them.

Construction of Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

SCHEDULE A.

(*See section 2.*)

Number and year.	Subject.	Extent of repeal.
	Bombay Regulations.	
IV of 1827	Forms of proceeding of the Courts of Law	Clauses 2 & 3 of section 69.

[a] As to the local repeal of s. 217, see para. 4 of foot-note on p.303, *supra*.

SCHEDULE A—*continued.*

Number and year.	Subject.	Extent of repeal.
	Bombay Regulations—continued.	
XVI of 1827	Duties and powers of the Collector and subordinate Revenue-officers.	So much as has not already been repealed.
XVII of 1827	Assessment and realizations of the Land-revenue	Ditto.
V of 1830	Revenue Commissioners and Sub-Collectors	Ditto.
XV of 1831	Punishment of Patels falsifying revenue-records	Ditto.
II of 1832	Realization of Revenue from Farmers	Ditto.
V of 1833	Embezzlement: Hereditary District and Village-officers.	Ditto.
	Acts of the Governor General in Council.	
XVIII of 1838	Security	The whole Act.
XIII of 1842	Collections of Inamdars' Revenues	Ditto.
XVII of 1842	Revenue Commissioners	So much as has not already been repealed.
III of 1846	Boundary-marks	Ditto.
XII of 1850	Public Accountants	The whole Act so far as it applies to Revenue-officers in the Presidency of Bombay.
XXI of 1852	Deputy Collectors	So much as has not already been repealed.
	Acts of the Governor of Bombay in Council.	
VII of 1863	Summary Settlement	Sections 4 & 5.
I of 1865	Survey	The whole Act, except sections 37 & 38.
[a] *I of 1866*	*Extending Bombay Act I of 1865*	*The whole Act.*
I of 1868	Powers and Duties of Assistant and Deputy Collectors.	Ditto.
IV of 1868	City Surveys	Ditto.
I of 1875	Amendment of (Bombay) Act I of 1865	Ditto.

[a] This schedule, so far as it relates to Bombay Act I of 1866, was repealed by Act XVI of 1895.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I,

inhabitant of

have been appointed to the office of

and have been called upon to furnish security under the provisions of section 23 of the Bombay Land-revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property, within such time, and to such person, as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein I bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE ,

hereby declare ourselves sureties for the abovesaid ,

that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council such sum as shall be deemed sufficient by the

to cover any loss or damage which the Government may sustain by reason of such default.

Dated

(*Signature.*)

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B.* of was, on the day of 187 , ordered by to (*here state the substance of the demand made*); and whereas the said *A. B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section of the Bombay Land-revenue Code, that he be imprisoned in the civil jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (*or* section 157 or 164, *as the case may be*) of the said Code; you are hereby required to receive the said *A.B.* into the jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 187 .

(*Signature of Collector.*)

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164.

WHEREAS I, have been ordered by to (*here state the nature of the demand*), and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of to contest the justice of the demand, and do agree that, in the event of a decree being passed against me, I will fulfil the same and will pay all amounts, including costs and interests, that may be due by me, or that, if I fail to institute a suit as aforesaid, I will, when required, pay the abovementioned amount of rupees (*or* will deliver up the abovementioned papers or property, *as the case may be*), and in the case of my making default therein I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE

hereby declare ourselves securities for the abovesaid

that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of,

rupees.

Dated

(*Signature.*)

SCHEDULE E.

(*See section 84.*)

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To *A. B.*

I DO hereby give you notice that I do intend to enter upon, and take possession of, the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the

of 187 .

(*Signed*) *C. D.*

Dated this day of 187 .

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT.

To *C. D.*

I DO hereby give you notice that I shall quit and deliver up to you, at the end of this current year, terminating on the of

187 , the land (*here give the description*) which I hold from you.

(*Signed*) *A. B.*

Dated this day of 187 .

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF ALIENATED LANDS OR VILLAGES OR HIS AGENT, UNDER SECTION 89

Seal.

THE Governor in Council of Bombay, by virtue of the powers vested in him by the Bombay Land-revenue Code, is pleased to confer on you (jágírdár,

etc., or agent, *etc., as the case may be,*) power to in (*or* in respect of) the villages and lands specified in this commission, in the manner prescribed in (*or* in section of the said Code).

The villages and lands over which the power thus conferred upon you extends are as follows :—

(*Here enter the description.*)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Governor in Council.

(*Signed.*)

SCHEDULE H [a].

(*See section 133.*)

FORM OF SANAD FOR BUILDING-SITES.

(*Royal Arms.*)

THE SECRETARY OF STATE IN COUNCIL.

To

WHEREAS His Excellency the Governor of Bombay in Council, with a view to the settlement of the land-revenue, and the record and preservation of proprietary and other rights connected with a soil, has, under the provisions of the Bombay Land-revenue Code, directed a survey of the lands within the of , and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that—

There is a certain plot of ground occupied by you in the division of the of , registered No. , in the map marked sheet , No. , and facing towards the , the road leading from to , containing about square yards, and of the following shape and about the following dimensions :—

You are hereby confirmed in the occupancy of the above-described ground exempt from all land-revenue (*or* subject to the payment of R per annum to the land-revenue).

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government without any

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[a] There is no Schedule G.

objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land-revenue according to the provisions of the Bombay Land-revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the , and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of , this day of one thousand eight hundred and A.D.

(*Signed.*)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202.

Seal.

To the officer in charge of the Civil Jail at

WHEREAS *A. B.* of has resisted (*or* obstructed) *C. D.* in removing *E. F.* (*or* himself, that is, the said *A. B.*) from certain land in the village of , in the táluqá, and whereas it is necessary, in order to prevent the continuance of such obstruction (*or* resistance), to commit the said *A. B.* to close custody. You are hereby required, under the provisions of section 202 of the Bombay Land-revenue Code, to receive the said *A. B.* into the jail under your charge and there to keep him in safe custody for days.

Dated this day of 187 .

(*Signature of Collector.*)

THE BOMBAY PORT TRUST ACT, 1879.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
2. Repeal of Bombay Act I of 1873.
3. Interpretation-clause.

II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

4. Act to be carried out by trustees.
5. Constitution of Board.
6. Elective trustees elected by Bombay Chamber of Commerce; or nominated by Government.
7. Appointments by Government.
8. Commencement of term of office of first trustees.
9. Nominee and elective trustees to retire by rotation.
10. Election and appointment of first trustees.
Trustees to be appointed and elected in March.
11. Chairman's tenure of office.
12. Trustees re-eligible.
13. Casual vacancies.
Acting trustees.

Disqualifications of Trustees.

14. Disqualifications for office of trustee.
Trustee becoming disqualified to cease to be trustee.
Proviso.

Salaries of Trustees.

15. Salary of Chairman.
Trustees other than Chairman entitled to fees.

Proceedings of Board.

16. Provisions as to Board's proceedings.
Vacancy not to affect proceedings.
Board to arrange for transaction of business; to meet once a fortnight;
special meetings;
quorum;
presiding at meetings;
questions decided by a majority of votes;
votes to be recorded, if poll demanded;
minutes of proceedings.

SECTIONS.

Board may delegate powers to committees.
Chairman of Committee-meetings.
Meetings of Committees.
Special meetings.
Questions how decided at Committee-meetings.
Acts of Board, etc., not invalidated by informalities.
17. Power of Chairman as to contracts.
17A. Chairman's signature may be engraved.
18. Board may compound for breach of contract.

The Chairman.

19. Duties of Chairman.
20. Leave of absence to Chairman.
Leave and acting allowances how defrayed.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

21. Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.
Proviso.
22. Board to regulate—
grant of leave;
absentee-allowances;
acting allowances;
length of service;
pensions, etc.;
contributions to provident fund.
Proviso as to certain officers and servants.

Powers of Appointment, etc.

23. Appointments, etc., by whom to be made.
24. Sanction of Government when necessary.
"Engineer" defined.

Continuance of present Officers and Servants.

25. Officers and servants of late trustees continued.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

26. Powers of Board as to property.
27. Procedure when Board unable to acquire, by agreement, immoveable property.

Transfer of Property to Board.

28. Transfer to Board of property of present Port Trust.
29. Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

SECTIONS.

30. Board to issue securities in payment of price of properties vested in them under section 29.
Securities to be for not less than one hundred rupees each, and transferable.
30A. Substitution of securities in new forms for those issued under section 30.

Application of the Board's Property.

31. Sale-proceeds of Board's property how invested.
32. Saving of powers of Government under Land Acquisition Act, 1894.

Liabilities.

33. Capital-debts of Board.
34. Interest in what cases payable.
35. Interest to be paid out of Provincial revenues if default made by Board.
36. Lump payment to be made to Municipality in lieu of general tax.
37. Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.
Roads and thoroughfares not to be stopped up without consent of Board.
38. Disputes under last section to be settled by Government.

V.—OF THE BORROWING POWERS OF THE BOARD.

39. Governor in Council may advance money to Board, or Board may raise loans.
Proviso.
40. Manner of raising loans determined by Government.
41. Interest on debentures to be first charge on rates.
42. Forms of debentures.

VI.—OF REVENUE AND EXPENDITURE.

Levy of Rates.

43. Scale of rates to be framed by Board; and submitted to Government for sanction.
Scale under section 57, Bombay Act I of 1873, to continue in force until altered.
Power to remit rates.
44. Toll on troops.
45. Charges for landing, shipping and transhipping goods.
46. Charges for towage.

Division of Accounts.

47. Pilotage-account.
48. Items to be credited to general account.
49. Moneys credited to general account how expended.
50. Pilotage-fees how credited.
Moneys credited to pilotage-account how expended.

Disposal of Balances.

SECTIONS.

51. Balances may be invested by Board in public securities.
Amounts to be so invested to be limited by Government.
Surplus how disposed of.
Proviso as to claims of pilots, etc., on balance of pilotage-account.
Interest, etc., how credited and debited.

Annual Estimates.

52. Chairman to submit annual estimate of income and expenditure.
53. Board to revise and sanction estimate.
54. Estimate to be submitted to Government.
55. Supplementary estimates may be made when necessary.
56. No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.
57. Estimate prepared under Bombay Act I, 1873, to be accepted for purposes of Act.

Audit of Accounts.

58. Accounts to be audited and examined.
Auditors to have power to call for books, etc.
Remuneration to be fixed by Government.
Report to be published.

Fulfilment of Board's Liabilities.

59. Board bound to provide for fulfilment of liabilities.
60. In default, Governor may require Board to increase rates; and, on Board's failing, may himself increase them.
Governor may also appoint receiver to recover portion of Board's income.

VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

Recovery of Rates.

61. Recovery of rates in arrears.
62. Lien for freight preserved after landing if notice be given.
63. Discharge of lien by payment or release.
64. If rates not paid, or lien for freight not discharged, goods may be sold after two months.
65. Application of proceeds of sale.
66. Power to distrain for non-payment of rates, etc.
67. Port-clearance not granted till rates, etc., are paid.

Works.

68. Works to be executed under Act.
Procedure before commencement of new work.

SECTIONS.

69. Saving of
rights of Government to use wharves, etc., for collecting duties;
and of powers of Customs officers.
70. Places to be set apart for use of Customs officers on wharves, etc.;
but right of Board to levy rates not affected;
surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.
71. Board to provide free landing-places.

Control of Pilots.

72. Trustees vested with right and privilege of maintaining pilots.

Bye-Laws.

73. Trustees empowered to make bye-laws.
74. Approval and publication of bye-laws.
Cancelment by Government.
75. Penalties for infringement of bye-laws.
76. Bye-laws and scales of rates and charges to be exhibited.
77. Continuance of bye-laws framed under Bombay Act I, 1873.

VIII.—PENALTIES.

78. For being interested in contracts with Board.
79. For obtaining illegal gratification.
80. For refusing or neglecting to appear before auditor, etc.
81. For setting up erection below high-water mark in port.
82. For understating quantity or weight of goods, etc.
83. For evading rates, etc.
84. Recovery of value of damage to property of Board.
85. Cognizance of offences.

IX.—MISCELLANEOUS.

86. Provision when day appointed for any purpose falls on Sunday or holiday.
87. Limitation of suits, etc.

SCHEDULE A.—PROPERTIES REFERRED TO IN SECTION 29.

SCHEDULE B.—FORM OF SECURITY.

SCHEDULE C.—STATEMENT OF CAPITAL DEBTS OF THE BOARD DUE TO THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

SCHEDULE D.—FORM OF DEBENTURE.

BOMBAY ACT No. VI OF 1879 [a].

(*The assent of the Governor-General of India to this Act was first published by the Governor of Bombay on the 4th September 1879.*)

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

WHEREAS it is expedient that the immoveable and other property vesting in the trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exerciseable by the said trustees, be vested, subject to the provisions hereinafter appearing, in a new trust; It is enacted as follows:— Preamble.

I.—PRELIMINARY.

1. This Act may be called the Bombay Port Trust Act, 1879. Short title.

2. From the date [b] which shall be notified by the Governor in Council under section 8, Bombay Act I of 1873 (the Bombay Port Trust Act, 1873), shall be repealed: Repeal of Bombay Act I of 1873.

Provided that all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the trustees appointed under the said Act shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the Board constituted by this Act;

and all rates and sums of money due to the said trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said trustees, may be continued or instituted by or against the said Board.

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[a] Bom. Act III of 1883 is to be read with, and taken as part of, Bom. Act VI of 1879—see s. 5 of the former Act.

[b] the 1st November 1879—see Bombay Government Gazette, 1879, Pt. I, p. 814.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) the word "rates" includes any toll, due, rent, rate, or charge leviable under section 43:

(2) "port" means the Port of Bombay within such limits as may, from time to time, be defined by Government for the purposes of this Act, by notification in the Bombay Government Gazette, and, until a notification is so issued, within such limits as may have been defined by Government under section 73 of the Bombay Port Trust Act, 1873,[a] for the purposes of that Act:

Bom. I of 1873.

(3) [*Definition of "vessel."*] *Repealed by Bom. Act III of 1886.*

(4) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel:

(5) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods: and, when used in relation to any vessel, includes any part-owner, charterer, consignee or mortgagee in possession thereof:

(6) "land" includes the bed of the sea below high-water mark:

(7) "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same:

(8) "dock" includes basins, locks, cuts, entrances, graving-docks, graving-blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock:

(9) "pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge or pontoon, and any bridges or other works connected therewith:

(10) the word "goods" includes wares and merchandise of every description:

(11) "immoveable property" includes wharfage-rights and all other rights exercisable on, over, or in respect of any land, wharf, dock, or pier:

(12) the words "public securities" mean securities of the Government of India, Bombay municipal debentures, and securities and debentures issued under sections 30 and 41, respectively, of this Act.

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[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by trustees.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the trustees of the Port of Bombay," and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Board.

5. The Board shall consist of thirteen members, that is to say, of—

five elective trustees,
seven nominee-trustees, and
a Chairman;

and not less than three of the trustees shall be natives of India residing in the City of Bombay.

Elective trustees elected by Bombay Chamber of Commerce;

6. The elective trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall, from time to time, be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the Bombay Government Gazette.

or nominated by Government.

In the event of default being made by the Chamber in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the Bombay Government Gazette to nominate a person, and the person so nominated shall be deemed to be a trustee as if he had been duly elected by the Chamber.

Appointments by Government.

7. The nominee-trustees and the Chairman shall be appointed by Government by notification in the Bombay Government Gazette.

Commencement of term of office of first trustees.

8. The term of office of the first nominee and elective-trustees shall commence on such date [a] as shall be notified in this behalf by the Governor in Council.

Nominee and elective trustees to retire by rotation.

9. Three of the first nominee-trustees and three of the first elective-trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the thirty-first day of March next succeeding the date on which their term of office shall commence, the selection of the said six trustees being made by lot at such time and in such manner as the Chairman shall determine.

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[a] the 1st November, 1879—see Bombay Government Gazette, 1879, Pt. I, p. 814.

The remaining four of the first nominee-trustees and the remaining two of the first elective-trustees shall hold office until and inclusive of the thirty-first day of March next following the thirty-first day of March aforesaid.

In every other case the nominee and elective trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

Election and appointment of first trustees.

10. The first elective-trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8; and the first nominee-trustees shall be appointed on some day during the said fortnight; in every other case elective-trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee-trustees shall be appointed on some day in the remainder of the said month of March.

Trustees to be appointed and elected in March.

Chairman's tenure of office.

11. The Chairman shall hold office during the pleasure of Government: provided that he does not in the meantime cease, through disqualification, to be a trustee.

Trustees re-eligible.

12. Any person on ceasing to be a trustee shall, unless disqualified under section 14, be re-eligible.

Casual vacancies.

13. Any casual vacancy in the office of a trustee other than the Chairman, occasioned by the death, resignation, or disqualification of such trustee, shall be filled up within one month by Government if the office vacated was that of a nominee-trustee, or by the Chamber of Commerce if it was that of an elective-trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of trustees: Provided that the trustee so chosen shall retain his office so long only as the vacating trustee would have retained the same if such vacancy had not occurred.

Acting trustees.

If a trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Disqualifications of Trustees.

Disqualifications for office of trustee.

14. No person shall be qualified to be a trustee during such time as he—

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any trustee who—

(*d*) becomes disqualified for any of the aforesaid reasons, or.

(*e*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*f*) is sentenced to imprisonment,

shall cease to be a trustee, and his office shall thereupon become vacant:

Trustee becoming disqualified to cease to be trustee.

Provided always that no trustee shall vacate his office by reason only of his— Proviso.

(*g*) having a share in any Joint-Stock Company which shall contract with, or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board.

Salaries of Trustees.

15. The Chairman shall receive such salary as Government shall from time to time determine. Salary of Chairman.

Every trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that, if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any trustee for his attendance at all such meetings during that one week. Trustees other than Chairman entitled to fees.

Proceedings of Board.

16. The following provisions shall be observed with respect to the proceedings of the Board (namely) :— Provisions as to Board's proceedings.

(1) during any vacancy in the Board, the continuing trustees may act as if no vacancy had occurred; Vacancy not to affect proceedings.

(2) the Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely) :— Board to arrange for transaction of business;

(*a*) that a meeting shall be held once at least in every fortnight; to meet once a fortnight;

(*b*) that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting; special meetings;

quorum;

(*c*) that no business shall be transacted at any meeting unless at least five trustees are present from the beginning to the end of such meeting;

presiding at meetings;

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent by such one of the trustees present as may be chosen by the meeting;

questions decided by majority of votes;

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes;

votes to be recorded, if poll demanded;

(*f*) that if a poll be demanded the names of the trustees voting and the nature of their votes shall be recorded by the president;

minutes of proceedings;

(*g*) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable by the president of such meeting, and shall be open to inspection by any trustee during office-hours;

Board may delegate powers to committees.

(3) the Board may delegate any of their powers to committees consisting of such trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

Chairman of committee-meetings.

(4) a committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting;

Meetings of committees. Special meetings.

(5) committees may meet and adjourn as they think proper; but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;

Questions how decided at committee-meetings.

(6) questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof;

Acts of Board, etc., not invalidated by informalities.

(7) no act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee, or trustee, or on the

ground that they, or any of them, were disqualified for the office of trustee.

Power of Chairman as to contracts.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

Chairman's signature may be engraved.

[a] **17 A.** Notwithstanding anything contained in section 17, the signature of the Chairman may be engraved, lithographed, or impressed by any mechanical process on the coupons attached to debentures issued under this Act, and such signature so engraved, lithographed, or impressed shall be as valid as if the same had been subscribed in the proper handwriting of the said Chairman.

Board may compound for breach of contract.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman.

Duties of Chairman.

19. The Chairman shall—

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

Leave of absence to Chairman.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoints to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

[a] S. 17A was added by Bom. Act III of 1881, s. 1.

Leave and acting allowances how defrayed.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the general account of the Board.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant.

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay Port Trust Act, 1873 [a], on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions: Bom. I of 1873.

Proviso.

Provided always that artisans, porters, and labourers, and mukaddams of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of section 22 [b] (except clauses (5) and (6) thereof) [b] or 23 [c].

Board to regulate—

22. The Board shall from time to time frame regulations—

grant of leave;

(1) for regulating the grant of leave to the officers and servants of the Board;

absentee allowances;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

acting allowances;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

length of service; pensions, etc.;

(4) for regulating the period of service of all such officers and servants;

(5) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratuities;

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[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

[b-b] These words and figures were inserted by Bom. Act III of 1883, s. 1.

[c] Words repealed by Bom. Act III of 1886, as amended by Bom. Act I of 1891, s. 2 (*b*), are omitted.

or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances:

[a] Provided that it shall be in the discretion of the Board to determine whether all of such officers and servants, or any, and, if so, which of them, shall become entitled on retirement to any such pensions' gratuities or compassionate allowances as aforesaid;

(6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may, with their approval, be established by the officers and servants appointed under this Act,[b] or to such provident fund, if any, as may be established by the Board for the benefit of such officers and servants [b]. contributions to provident fund.

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873 [c], and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued in the service of the trustees appointed under the Bombay Port Trust Act, 1873 [c], and of the trust constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status; and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity or compassionate allowance, or as to the amount of retiring pension, gratuity or compassionate allowance to which he is entitled, it shall be determined by Government. Proviso as to certain officers and servants. m. I of 1873.

Powers of Appointment, etc.

23. Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board. Appointments, etc., by whom to be made.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or

[a] This proviso was added by Bom. Act III of 1883, s. 2.
[b-b] These words were added by Bom. Act III of 1883, s. 3.
[c] Bom. Act I of 1873 is repealed by s. 2 of this Act.

compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

Sanction of Government when necessary.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

"Engineer" defined.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

Continuance of present Officers and Servants.

Officers and servants of late trustees continued.

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8, under the trustees appointed under the Bombay Port Trust Act, 1873[a], shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act. Bom. I of 1873.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure when Board unable to acquire, by agreement, immoveable property.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 [b]. I of 1894.

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[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.
[b] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of Property to Board.

Transfer to Board of property of present Port Trust.

28. All such immoveable and other property as is held by or in trust for the trustees of the Port of Bombay under or in pursuance or for the purposes of the Bombay Port Trust Act, 1873 [a], shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board but subject to all charges and liabilities affecting the same.

Bom. I of 1873.

The property vested by this section in the Board shall be deemed to include the estate, right, title and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabar Point and Kolaba Point.

Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; It is hereby enacted that, upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts and liabilities affecting the same.

Board to issue securities in payment of price of properties vested in them under section 29.

30. And whereas it is purposed that the purchase-money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; It is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lakhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest

[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Securities to be for not less than one hundred rupees each,

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at the rate of four per centum per annum from the date fixed by the Governor in Council under section 29; and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

and transferable.

The said securities shall be transferable by endorsement.

Substitution of securities in new forms for those issued under section 30.

[a] **30A.** The Board may from time to time, with the previous consent of Government, provide for the issue of securities in lieu of those already issued or yet to be issued under section 30 in a form other than that of Schedule B, and for the payment of the interest due on the principal sums thereby secured by coupons annexed to the said securities, or in such other manner as they shall think fit.

The holder of any security in the form of Schedule B, or in any new form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a security in any other form so authorized.

Every new security issued under this section shall be transferable in such manner as shall be therein expressed, [b]anything in section 30 to the contrary notwithstanding[b].

Application of the Board's Property.

Sale-proceeds of Board's property how invested.

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows, and not otherwise (namely):—

(*a*) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable; or

(*b*) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(*c*) in liquidation of the securities, or of any of them, issued under section 30.

Saving of powers of Government under Land Acquisition Act, 1894.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land Acquisition Act, 1894 [c], or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board. I of

[a] S. 30A was inserted by Bom. Act I of 1881, s. 1.
[b-b] These words and figures were added by Bom. Act III of 1881, s. 2.
[c] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

Liabilities.

33. The capital-debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows (namely) :— Capital-debt of Board.

(*a*) to the Secretary of State for India in Council—the amounts mentioned in Schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the trustees appointed under the Bombay Port Trust Act, 1873 [a], or applied by or on behalf of the said Secretary of State in Council, with the consent of the said trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (2), of the said Act; Bom. I of 1873.

(*b*) to the holders of the securities to be issued by the Board under section 30—the amounts of such securities.

34. On the amounts mentioned in column 3 of Schedule C no interest shall be payable. Interest in what cases payable.

On the amounts mentioned in column 2 of the said schedule, interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June, 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (*a*) of the last preceding section, which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 [b], interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 [c] or section 30A [c] interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time

[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

[b] Words repealed by Bom. Act III of 1886, as amended by Bom. Act I of 1891, s. 2 (*b*), are omitted.

[c-c] This reference was inserted by Bom. Act III of 1881, s. 3.

being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

Interest to be paid out of Provincial revenues if default made by Board.

35. In the event of default being made by the Board in any payment of interest due by it under paragraph 2, 3 or 4 of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the Provincial revenues of the Presidency of Bombay; and, in the event of default being made by the Board in any payment due by it under paragraph 5 of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial revenues of the Presidency of Bombay.

Lump payment to be made to municipality in lieu of general tax.

[a] **36.** The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the city of Bombay, in lieu of the general tax leviable by the said Corporation in respect of the property or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said value shall be fixed with a general regard to the provisions contained in the City of Bombay Municipal Act, 1888 [b], concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases. Bom. III of 1888.

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[a] This section was substituted for the originals. 36 by Bom. Act III of 1888, s. 145.
[b] Printed in Vol. III of this Code.

(*3*) The sum to be paid annually to the Corporation by the Board shall be nine-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (*2*).

Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.

37. In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares not to be stopped up without consent of Board.

The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by, the Board or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873 [a], and which has been declared to be a public road or thoroughfare under this section or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

Bom. I of 1873.

Disputes under last section to be settled by Government.

38. Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

V.—Of the Borrowing Powers of the Board.

Governor in Council may advance money to Board, or

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act; or

[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

Board may raise loans.

the Board may, with the previous consent of Government, from time to time raise money for the said purposes, [a] or for the purpose of repaying, either in whole or in part, any moneys heretofore or hereafter borrowed, or owing by the Board [a] :

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

Manner of raising loans determined by Government.

40. Whenever the consent of Government has been obtained to the raising of money by the Board under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint in the manner in which such money shall be raised.

Interest on debentures to be first charge on rates.

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest payable to the Secretary of State for Inpia in Council provided for by section 34.

Forms of debentures.

[b]**42.** When money is raised by the Board on debentures, the debentures shall be in the form of Schedule D, or in such other form as the Board, with the previous consent of Government, shall from time to time determine.

The holder of any debenture in the form of Schedule D, or in any form duly authorised under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form so authorised.

Every debenture issued by the Board shall be transferable,—

(*a*) if it is in the form of Schedule D, by endorsement, and,

(*b*) if it is in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the moneys secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

VI.—Of Revenue and Expenditure.

Levy of Rates.

Scale of rates to be framed by Board;

43. The Board shall frame a scale of tolls, dues, rents, rates and charges to be levied for each or any of the following matters (namely) :—

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

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[a-a] These words were added by Bom. Act III of 1881, s. 4.

[b] This section was substituted for the original s. 42 by Bom. Act I of 1881, s. 5.

(*b*) for permission for vessels or boats to approach, or be alongside, and

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, [a] pier, land or building [a] in the possession of the Board, and so much of the Wari Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wari Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

and submitted to Government for sanction.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the Bombay Government Gazette shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

Scale under section 57, Bombay Act I, 1873, to continue in force until altered.

Until a scale of rates is framed, sanctioned and published under this section, the scale in force when this Act comes into operation under section 57 of the Bombay Port Trust Act, 1873 [b], shall be deemed to have been duly framed, sanctioned and published under this section.

Bom. I of 1873.

Power to remit rates.

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section.

Toll on troops.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government.

Charges for landing, shipping and transhipping goods.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

Charges for towage.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit, to be employed in towing vessels into, out of, or in the

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[a-a] These words were substituted for the original words by Bom. Act VI of 1883.
[b] Bom. Act I of 1873 is repealed by s. 2 of this Act.

harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

Division of Accounts.

Pilotage account.

47. In the accounts of the Board a pilotage account shall be kept separate from the general account.

Items to be credited to general account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage fees, shall be credited to the general account.

Moneys credited to general account how expended.

49. The moneys credited to the general account shall be held by the Board in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely) :—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any provident fund established by the said officers and servants, [a] or to such provident fund, if any, as may be established by the Board for the benefit of such officers and servants; and, if any such provident fund be established by the Board, the costs and expenses, if any, which may be incurred by the Board in the conduct and administration thereof [a];

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34:

Provided always that no charge which is debitable under section 50 to the pilotage account shall be debited to the general account.

Pilotage fees how credited. Moneys credited to pilotage account how expended.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the pilotage account and shall be held by the Board in trust, and be applied,

[a-a] These words were added by Bom. Act III of 1883, s. 4.

in such proportions as they shall from time to time direct, to the following purposes only (namely) :—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund.

Disposal of balances.

Balances may be invested by Board in public securities.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the general or pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

Amounts to be so invested to be limited by Government.

But the money so invested by the Board, whether in respect of the general account or of the pilotage account, shall not exceed such amount, annually or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied—

Surplus how disposed of.

(*a*) if such surplus belongs to the general account—in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(*b*) if such surplus belongs to the pilotage account—in such manner as Government shall direct:

Proviso as to claims of pilots, etc., on balance of pilotage account.

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof, except to such extent as payments to them,

or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50.

Interest, etc., how credited and debited.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

Annual Estimates.

Chairman to submit annual estimate of income and expenditure.

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to revise and sanction estimate.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

Estimate to be submitted to Government.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

Supplementary estimates may be made when necessary.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Bom. I of 1873.

57. Any estimate prepared by the trustees appointed under the Bombay Port Trust Act, 1873 [a], and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

Estimate prepared under Bombay Act I, 1873, to be accepted for purposes of Act.

Audit of Accounts.

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

Accounts to be audited and examined.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Auditors to have power to call for books, etc.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the general account; and, within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the Bombay Government Gazette.

Remuneration to be fixed by Government. Report to be published.

Fulfilment of Board's Liabilities.

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure or by increase of rates, for the due fulfilment of all their liabilities and for the efficient administration of this Act; and, in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

Board bound to provide for fulfilment of liabilities.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such

In default, Governor may require Board to increase rates;

[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

and on Board's failing may himself increase them.

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the Bombay Government Gazette, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

Governor may also appoint receiver to recover portion of Board's income.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the Bombay Government Gazette, appoint some person to receive the rates, charges and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income: and the person so appointed shall have, for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

VII.—Of the Powers and Functions of the Board.

Recovery of Rates.

Recovery of rates in arrears.

61. For the amount of all rates leviable under this Act in respect of any goods the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board or to be shipped for export shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

Lien for freight preserved after landing if notice be given.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall

continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs authority of the Presidency, in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

If rates not paid, or lien for freight not discharged, goods may be sold after two months.

64. If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the Bombay Government Gazette, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

65. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows:—

firstly, in payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

secondly, in payment of the expenses of the sale;

thirdly, in payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made, to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

Power to distrain for non-payment of rates, etc.

66. If the master of any vessel in respect of which any rates, charges or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not granted till rates, etc., are paid.

67 If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act or any bye-laws or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Works.

Works to be executed under Act.

68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, fences, roads, railways and approaches;

(2) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(4) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board, when such reclamation, excavation, enclosure or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid;

(7) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Procedure before commencement of new work.

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work the estimated cost of which exceeds two lakhs of rupees be commenced until such plan and estimate shall have been submitted to and approved by Government.

Regulation of use of Wharves, etc.

Saving of—

rights of Government to use wharves, etc., for collecting duties; and of power of Customs-officers.

69. Nothing in this Act shall be deemed to affect—

(*a*) the right of Government to collect customs-duties, or of the Municipal Corporation of the City of Bombay to collect town-duties, at any wharf, pier or dock in the possession of the Board, or

(*b*) any power or authority vested in the customs-authorities of the Presidency under any law for the time being in force for the administration of sea-customs.

Places to be set apart for use of Customs-officers on wharves, etc.;

70. Whenever any wharf, pier or dock in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force for the administration of sea-customs [a], a wharf or place for the landing and shipping of goods within the meaning of such Act,

III of 1878.

[a] See Act VIII of 1878, a revised edition of which, as modified up to 1st July, 1891, has been published by the Legislative Department.

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart and maintain such place on or adjoining such wharf, dock or pier, or in such warehouse, or portion of a warehouse, for the use of the officers of Customs, as Government shall in that behalf approve or appoint;

but right of Board to levy rates not affected;

but all rates payable in respect of any wharf, pier or warehouse, or portion thereof, so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs-authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

Board to provide free landing-places.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Control of Pilots.

Trustees vested with right and privilege of maintaining pilots.

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board: provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1889 [a], to pilot vessels. X of 1889.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the

[a] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

Bye-laws.

Trustees empowered to make bye-laws.

73. The Board may, from time to time, make bye-laws—

(*a*) for the guidance of persons employed by them under this Act;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways and other works constructed or acquired by them under this Act;

(*c*) for the use of the public landing-places constructed by or belonging to them;

(*d*) for the reception and removal of goods brought within the premises of the Board;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act;

(*g*) for regulating, declaring and defining the wharves, docks and piers vested in the Board on which goods shall be landed from, and shipped on board, vessels; and

(*h*) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter or revoke any such bye-laws so made by them.

App and tion law

74. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Bombay Government Gazette; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

75. The Board may, in the bye-laws made under section 73, prescribe such penalties as they shall deem fit for the infringement of the same: provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exce

fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws and scales of rates and charges to be exhibited.

76. The Board shall cause the said bye-laws and the scales of rates and charges leviable by the Board, to be printed in the English, Maráthi and Gujaráthi languages, and to be hung up at the several wharves, docks and piers, and other convenient places on the premises of the Board.

Continuance of bye-laws framed under Bombay Act I, 1873.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the trustees appointed under the Bombay Port Trust Act, 1873, [a] under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act. Bom. I of 1873.

VIII.—Penalties.

For being interested in contracts with Board.

78. Any person who, being a trustee or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code [b]: XLV of 1860

Provided that nothing in this section shall apply to a person—

(*a*) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of, the Board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(*c*) interested in any loan of money to the Board.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code [b] who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code [b] in the case of the like offence committed by a public servant. XLV of 1860. XLV of 1860.

[a] Bom. Act I of 1873 is repealed by s. 2 of this Act.

[b] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

For refusing or neglecting to appear before auditor, etc.

81. Any person, other than the Board or the Conservator of the port, who shall, without first obtaining the written consent of Government to his so doing, make, set up or fix, below high-water mark within the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him.

For setting up erection below high-water-mark in port.

Any such wharf, quay, pier, mooring or other erection may be removed by the Board, and the person who made, set up, or fixed the same shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

82. If it be found, when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For understating quantity or weight of goods, etc.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code [a] the removal of, any goods, vessel, animal or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board, shall be punished with fine which may extend to fifty rupees.

XLV of 1860.

For evading rates, etc.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

Recovery of value of damage to property of Board.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel: provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard; and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot-service of the port or of the Master-attendant's Department.

Cognizance of offences.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

IX.—Miscellaneous.

Provision when day appointed for any purpose falls on Sunday or holiday.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

Limitation of suits, etc.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

The Board shall not be responsible for any misfeasance, malfeasance, or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1889 [a], Conservators of the port, for any misfeasance, malfeasance or non-feasance of any Deputy Conservator, Master-attendant or Harbour-master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy; X of 1889.

[a] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done, by them in pursuance of this Act.

SCHEDULE A.

Properties referred to in section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Kolába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Kolába road appertaining thereto and all rights, privileges and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Kolába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Kolába Company, situated at Kolába commencing from the Kolába road at the point where the properties of the New Kolába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar-wall of the Victoria Basin and the Harbour-face up to the junction of the New Kolába Company's property with the Gun-carriage Reclamation; again commencing at the junction of the New Kolába Company's property and the property of the Apollo Press Company and running along the Harbour-face and alongside the Arthur Basin up to the Kolába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs-limits, together with all rights and privileges enjoyed or claimed by the New Kolába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.
3	The Apollo Press Company.	All the land at Kolába, the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun-carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Kolába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder-works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.

(*Schedule B.*)

No.	Names of Holders.	General Description of Properties.
5	The Frere Land Company.	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubeeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the trustees of the port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Nur Mahomed.	
8	Manockjee Adurjee.	
9	Aitwar Lukdee.	
10	Muncherjee Framjee Cama.	
11	Dadabhoy Hormusjee.	
12	Hajee Essa Hajee Fusla.	
13	Dorabjee Nusserwanjee.	
14	Byramjee Cowasjee.	
15	Esmail Mahomed Songaji.	

SCHEDULE B.

(*See section 30.*)

FORM OF SECURITY.

THE TRUSTEES OF THE PORT OF BOMBAY.

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to , or order, the sum of rupees , value received; such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the Bombay Government Gazette. We further promise and agree for ourselves and our successors to pay to the said , or order, interest on the said sum of rupees , from the day until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the first day of April and the first day of October in every year until the

expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common seal this day of 187 .

(*Signature of the Chairman and two Trustees.*)

Seal *of the Corporation.*

SCHEDULE C.

(*See section 33.*)

STATEMENT OF CAPITAL DEBTS OF THE BOARD DUE TO THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

On account of what Property, etc.	Bearing interest.			Not bearing interest.			Total.		
	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
Elphinstone Estate, purchase price .	1,85,91,596	12	8	.....					
Elphinstone Estate, expended in 11 months to 31st March, 1871 .	7,47,370	2	10	.....					
Elphinstone Estate, expended in 12 months to 31st March, 1872 .	2,75,090	8	6	.....					
Elphinstone Estate, Troop Siding, Carnac Bandar . . .	39,790	3	2	.....					
							1,96,53,847	11	2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1871 . .	3,57,596	8	8	.....					
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1872 . .	2,01,345	6	4	.....					
							5,58,941	15	0

(*Schedule C.*)

On account of what Property, etc.	Bearing interest.	Not bearing interest.	Total.
	Rs. A. P.	Rs. A. P.	Rs. A. P.
Apollo Bay Reclamation, expended in year to 31st March, 1872 .	9,752 11 11	.....	9,752 11 11
Wellington Reclamation, expended in year to 31st March, 1872 .	934 12 8	.....	934 12 8
Apollo Pier, expended prior to 31st March, 1870	.....	2,23,038 12 2	
Apollo Pier, expended in year to 31st March, 1871 . . .	1,38,173 7 8	.....	
Apollo Pier, expended in year to 31st March, 1872 . . .	61,825 9 2	.....	
			4,23,037 13 0
Tank Bandar, expended in year to 31st March, 1871 . . .	182 0 0	.....	182 0 0
Customs Bonded Warehouse — Apollo Bonded Warehouse . . .	.....	5,50,000 0 0	
Customs Bonded Warehouse — Custom-house Godown	.....	25,165 0 0	
			5,75,165 0 0
Kussara Bandar	.....	5,285 0 0	5,285 0 0
Saw Mill Property, Tank Bandar .	.....	41,189 14 4	41,189 14 4
Expended on the above properties between 31st March, 1872, and the passing of Bombay Act I of 1873 .	1,45,053 5 4	.....	1,45,053 5 4
Balance of interest unpaid at 31st March, 1871	2,75,273 4 7		
Balance of interest unpaid at 31st March, 1872	1,50,233 3 2	.....	6,02,042 10 0
Balance of interest unpaid for the period from 1st April, 1872, until, the date on which Bombay Act I of 1873 came into operation .	1,76,536 2 3		
TOTAL Rs. .	2,11,70,754 2 11	8,44,678 10 6	2,20,15,432 13 5

SCHEDULE D.

(*See section 42.*)

FORM OF DEBENTURE.

THE TRUSTEES OF THE PORT OF BOMBAY.

The *18* .

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled the Bombay Port Trust Act, 1879, we, the trustees of the port of Bombay, in consideration of the sum of rupees paid to us by *A. B.*, of , promise to pay to the said , or order, the said sum of rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of

Given under our corporate seal this day of 187 .

(*Signatures of the Chairman and two Trustees.*)

of the Corporation.

THE BOMBAY IRRIGATION ACT, 1879.

CONTENTS.

PREAMBLE.

SECTIONS.

PART I.

PRELIMINARY.

1. Short title.
   Local extent.
2. Sections 55, 101 and 105 of Bombay Land-revenue Code, 1879, amended.
3. Interpretation-clause.
4. Appointment of Canal-officers.
   Proviso.

PART II.

OF THE CONSTRUCTION AND MAINTENANCE OF CANALS.

Application of Water for Purposes of Canals.

5. Notification when water-supply to be applied for purposes of canal.

Powers of Entry on Land, etc.

6. Powers of Canal-officers for purpose of so applying water-supply.
7. Entry for enquiry.
8. Power to inspect and regulate water-supply.
9. Power to enter for repairs, and to prevent accidents.
10. Notice to occupier of building, etc.

Canal Crossings.

11. Means of crossing canals and of drainage to be provided.

Removal of Obstructions to Drainage.

12. Government may prohibit formation of obstructions of rivers, etc., within certain limits.
13. Canal-officer may issue order to person causing obstruction.
14. Canal-officer may cause obstruction to be removed.

Construction of Drainage-works.

15. When drainage works are necesssary, Government may order scheme to be carried out.

PART III.

Of Water-Courses.

Construction of new Water-courses.

SECTIONS.

16. Construction of new water-courses by private arrangement.
17. Application for construction by Canal-officer of new water-course.
18. Procedure when Canal-officer considers construction of water-course expedient.
    Application by person wishing to be joint owner.
    If application admitted, applicant liable for share of cost.
19. Collector to acquire land.
20. Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

21. Obligations of owner of water-course.
    Rights of owners and users of water-courses.
22. Arrangement with owner by other person.
23. Canal-officer after enquiry may authorize supply, or declare applicant to be joint owner.
24. Use of land acquired for water-course for other purpose.
25. If owner fails to execute work or to repair water-course, Canal-officer may execute same.
    Person using water-course to pay share of expenses of repair.

Settlement of Disputes concerning Water-courses.

26. Settlement of disputes as to mutual rights and liabilities of persons interested in water-course.

PART IV.

Of the Supply of Water.

Applications for Supply.

27. Water to be supplied on written application;
    and water may be supplied for purposes other than those of irrigation.

Provisions as to Supply.

28. Power to stop water-supply.
29. Duration of supply.
30. Agreements for supply for water transferable with property in respect of which supply given.
    Right to use of water not transferable in other case without permission of Canal-officer.

PART V.

Of the Award of Compensation.

Compensation when claimable.

Sections.

31. Compensation in cases of ascertainable substantial damage.
    Exceptions.
    Remission of water-rates when allowable.
32. Limitation of claims.
33. [*Repealed.*]

Summary Decisions.

34. Compensation for damage caused by entry on land, etc.
35. Compensation on account of interruption of water-supply.
36. Decision as to amount of compensation under either of last two sections conclusive.

Formal Adjudications.

37. Notice as to claims for compensation in certain cases.
38. Claims to be preferred to Collector.
39. Collector to be guided by provisions of Land Acquisition Act, 1870.
40. Diminution in market-value to be considered in fixing compensation.
41. Compensation when due.
    Interest.

Abatements of Land-revenue and Rent.

42. Abatement of revenue-demand on interruption of water-supply.
43. Abatement of inferior holder's rent on interruption of water-supply.
    Enhancement of inferior holder's rent on restoration of water-supply.

PART VI.

Of Water-rates.

Supply Rates.

44. Determination of rates for supply of canal-water.
    Provision for cases in which existing water-supply is improved.

Occasional Rates.

45. Liability when person using water unauthorizedly cannot be identified.
46. Liability when water runs to waste.
47. Charges recoverable in addition to penalties.

Percolation and Leakage Rates.

SECTIONS.

48. Land deriving benefit from percolation liable to water-rate.

Protection-rate.

49 to 56. [*Repealed.*]

Recovery of Water-rates and other Dues in Arrears.

57. Water-rates when and to whom to be paid.
Arrears to be recoverable as land-revenue.
Rent due to owners of water-courses to be recoverable as arrears of land-revenue.

PART VII.

OF OBTAINING LABOUR FOR CANALS ON EMERGENCIES.

58. Procedure for obtaining labour for works or repairs urgently required.
59. List of labourers.
60. Reports to be made by Canal-officer.

PART VIII.

OF PENALTIES.

61. For damaging canal, etc.
62. For endangering stability of canal, etc.
63. Obstruction to be removed and damage repaired.
64. Persons employed on canal may take offenders into custody.
65. Saving of prosecution under other laws.
66. Payment of fine as award to informant.

PART IX.

MISCELLANEOUS.

67. Appeals against orders under Act.
68. Power to summon and examine witnesses.
69. Service of notices.
70. Power to make, alter and cancel rules.
Publication of rules.
71. Saving of municipal water-works.

BOMBAY ACT No. VII OF 1879.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 2nd October, 1879.*)

An Act to provide for Irrigation in the Bombay Presidency.

Preamble.

WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom and for the levy of rates for water so supplied, in the Bombay Presidency ; It is enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Irrigation Act, 1879.

Local extent.

It extends to the whole of the Presidency of Bombay, except the City of Bombay.

Sections 55, 101 and 105 of Bombay Land-revenue Code, 1879, amended.

2. In section 55 of the Bombay Land-revenue Code, 1879 [a], for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of, Government", the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted ; Bom. V of 1879.

and in section 101 of the said Code, for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55" ;

and to section 105 of the said Code, the words "or of the Bombay Irrigation Act, 1879," shall be added.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) "canal" includes—

(*a*) all canals, channels, pipes and reservoirs constructed, maintained or controlled by Government for the supply or storage of water ;

(*b*) all works, embankments, structures and supply and escape channels connected with such canals, channels, pipes or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs ;

(*c*) all water-courses, drainage-works and flood-embankments as hereinafter respectively defined ;

(*d*) any part of a river, stream, lake, natural collection of a water or natural

[a] Printed *supra*, p. 303.

drainage-channel, to which the Governor in Council may apply the provisions of section 5, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

(2) "water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe;

(3) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section 15 or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns;

(4) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation-works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments;

(5) "Collector" [a] includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act;

(6) "Canal-officer" means any officer lawfully appointed or invested with powers under section 4;

(7) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

Appointment of Canal-officers.

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may—

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties, under this Act as Government or such officer may deem fit;

[a] Words repealed by Bom. Act III of 1886 are omitted.

(*b*) invest any Government officer, in any department, either personally, or in right of his office, or any other person, which such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Proviso.

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II.

Of the Construction and Maintenance of Canals.

Application of Water for Purposes of Canals.

Notification when water-supply to be applied for purposes of Canal.

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal, the Governor in Council may, by notification in the Bombay Government Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Entry on Land, etc.

Powers of Canal-officers for purpose of so applying water-supply.

6. At any time after the day so named, any Canal-officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute or employ, such subordinates and other persons as he deems fit.

Entry for enquiry.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may—

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894[a], to the effect that land in that locality is likely to be needed for a public purpose, and

I of 1894

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894. s. 2.

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

Power to inspect and regulate water-supply.

8. Any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land, building or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

9. In case of any accident being apprehended or happening to a canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land adjacent to such canal, and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage done.

Notice to occupier of building, etc.

10. When a Canal-officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided.

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Government may prohibit formation of obstructions of rivers, etc., within certain limits.

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Governor in Council may, by notification published in the Bombay Government Gazette, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section 3.

Canal-officer may issue order to person causing obstruction.

13. Any Canal-officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

Canal-officer may cause obstruction to be removed.

14. If, within the time so fixed, such person does not comply with the order, the Canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

Construction of Drainage-works.

When drainage-works are necessary, Government may order scheme to be carried out.

15. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on Canal-officers by sections 7, 8 and 9, and shall be liable to the obligations imposed upon Canal-officers by sections 10 and 34.

PART III.

Of Water-courses.

Construction of new Water-courses.

Construction of new water-courses by private arrangement.

16. Any person may, with the permission of a Canal-officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Application for construction by Canal-officer of new water-course.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any Canal-officer duly empowered to receive such applications, stating—

(*1*) that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course;

(*2*) that he desires the said Canal-officer in his behalf and at his cost to do all things necessary for constructing such water-course.

Procedure when Canal-officer considers construction of water-course expedient.

18. If the Canal-officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and, upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated, for publication on such land.

Application by person wishing to be joint owner.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the Canal-officer within thirty days of the publication of such notification.

If application admitted, applicant liable for share of cost.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

Collector to acquire land.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 [a], as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

I of 1894.

Procedure after construction of water-course.

20. On being put in possession of the land, the Canal-officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the Canal-officer. On receipt of payment in full of all expenses incurred, the Canal-officer shall make over possession of such water-course to such owner.

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

Rights and Obligations of Owners of Water-courses.

Obligations of owner of water-course.

21. Every owner of a water-course shall be bound—

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section 23;

Rights of owners and users of water-courses.

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

(*d*) to have a supply of water by such water-course, at such rates and on such terms, as may from time to time be prescribed under section 44 and by the rules made by the Governor in Council under section 70;

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties, or to any condition imposed under section 23, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a Canal-officer duly empowered to receive such notices, resign his interest in such water-course.

Arrangement with owner by other person.

22. Any person desiring to have a supply of water through a water-course of which he is not an owner may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a Canal-officer duly empowered to receive such applications for authority to use such water-course or to be declared a joint owner thereof.

Canal-officer after enquiry may authorize supply, or declare applicant to be joint owner.

23. On receipt of any such application, the Canal-officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a Canal-officer duly empowered to grant such permission.

Use of land acquired for water-course for other purpose.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section 21, any Canal-officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period, to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf, and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work or to repair water-course, Canal-officer may execute same.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a Canal-officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section 23 at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said Canal-officer.

Person using water-course to pay share of expenses of repair.

Settlement of Disputes concerning Water-courses.

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, or among joint owners of a water-course, as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

Settlement of disputes as to mutual rights and liabilities of persons interested in water-course.

any person interested in the matter of such dispute may apply, in writing, to any Canal-officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter;

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a Civil Court.

PART IV.

Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application;

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a Canal-officer duly empowered to receive such applications, in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the Canal-officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control and measurement of the supply as he shall be empowered by Government to impose in each case.

Provisions as to Supply.

Power to stop water-supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*e*) within periods fixed from time to time by a Canal-officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

29. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with property in respect of which supply given; right to use of

30. Every agreement for the supply of canal-water to any land, building or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immoveable property takes place.

No person entitled to the use of any work or land appertaining to any

canal, and, except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let, or otherwise transfer, his right to such use without the permission of a Canal-officer duly empowered to grant such permission.

water not transferable in other case without permission of Canal-officer.

PART V.

OF THE AWARD OF COMPENSATION.

Compensation when claimable.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Compensation in cases of ascertainable substantial damage.

Provided that no compensation shall be so awarded in respect of any damage arising from—

Exceptions.

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section 5, if no use have been made of such supply within the five years next before the date of the issue of the notification under section 37, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any Canal-officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained

Limitation of claims.

of commenced, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

33. [*Compensation not claimable in respect of works executed prior to Act.*] *Repealed by Act XVI of 1895.*

Summary Decisions.

Compensation for damage caused by entry on land, etc.

34. In every case of entry upon any land or building under section 6, section 7, section 8 or section 9, the Canal-officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property,

and within one month from the date of such entry compensation shall be tendered by a Canal-officer duly empowered in this behalf to the landholder or owner of the property damaged.

If such tender is not accepted, the Canal-officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section 31, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the Canal-officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of last two sections conclusive.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if any rule framed under section 70, such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

37. As soon as practicable after the issue of a notification under section 5, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections 31 and 32 shall be annexed to every such notice.

Claims to be preferred to Collector.

38. All claims for compensation under this Act, other than claims of the nature provided for in sections 34 and 35, must be made before the Collector of the district in which such claim arises.

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant; and sections 11, 12, 14, 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51 and 58 of the Land Acquisition Act, 1870 [a], shall apply to such enquiries:

X of 1870.

Collector to be guided by provisions of Land Acquisition Act, 1870.

Provided that instead of the last clause of the said section 26, the following shall be read:—

"The provisions of this section and of sections 31 and 40 of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

Diminution in market-value to be considered in fixing compensation.

and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for compensation awarded under section 39, shall become due three months after the claim for such compensation was made;

Compensation, when due.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Interest.

Abatements of Land-revenue and Rent.

42. If compensation is awarded under section 39 on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of revenue-demand on interruption of water-supply.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Abatement of inferior holder's rent on interruption of water-supply.

[a] Act X of 1870 has been repealed by Act I of 1894, but see saving in s. 2 (3) of the latter Act.

Enhancement of inferior holder's rent on restoration of water-supply.

but, if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.

Of Water-rates.

Supply Rates.

Determination of rates for supply of canal-water.

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates.

Liability when person using water unauthorizedly cannot be identified.

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section 70.

Liability when water runs to waste.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be,

for the charges which shall be made, in respect of the water so wasted, under the rule prascribed by the Governor in Council under section 70.

All questions arising under this and the last preceding section shall, subject to the provisions of section 67, be decided by a Canal-officer duly empowered in this behalf.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

Percolation and Leakage-rates.

48. If it shall appear to a Canal-officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

Land deriving benefit from percolation liable to water-rate.

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

49 to 56. [*Protection-rate.*] *Repealed by Bom. Act III of 1880.*

Recovery of Water-rates and other Dues in Arrears.

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Water-rates when and to whom to be paid.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a Canal-officer, whether on behalf of Government or of any other person, under Part III [a], which is not paid when demanded, shall be recoverable according to the law

Arrears to be recoverable as land-revenue.

[a] Words repealed by Bom. Act III of 1886 are omitted.

and under the rules for the time being in force for the recovery of arrears of land-revenue.

Rent due to owners of water-courses to be recoverable as arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the Canal-officer duly empowered to act under section 23 shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid : Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

PART VII.

Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

58. Whenever it appears to a Canal-officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance or work ; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

List of labourers.

59. Subject to such rules as may from time to time be prescribed under section 70 in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

60. All orders made under section 58 shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation, for the information of Government.

Reports to be made by Canal-officer.

PART VIII.

Of Penalties.

61. Whoever voluntarily and without proper authority—

For damaging canal, etc.

(1) damages, alters, enlarges or obstructs any canal;

(2) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal;

(3) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4) destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(5) destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal;

(6) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under section 70, after he has been desired to desist therefrom;

(7) causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers or causes or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures, or causes to be removed, cut or otherwise injured, any tree, bush, grass or hedge intended for the protection of such canal or embankment;

(8) neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under section 58;

(9) violates any rule made under section 70 for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(10) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention

of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section 23;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code [a], on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment [b] for a term which may extend to one month, or with both. XLV of 1860.

For endangering stability of canal, etc.

62. Whoever without proper authority—

(1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of any canal;

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any canal;

(3) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code [a], on conviction before a Magistrate of the first or second class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment [b] for a term which may extend to six months, or with both. XLV of 1860.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal-officer duly empowered in this behalf may remove such obstruction or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Persons employed on canal may

64. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody with-

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] Words repealed by Bom. Act III of 1886 are omitted.

out a warrant, and take forthwith before a Magistrate or to the nearest Police-station, to be dealt with according to law, any person who within his view— take offenders into custody.

(1) wilfully damages, obstructs or fouls any canal, or

(2) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: Provided that no person shall be punished twice in respect of one and the same act or omission. Saving of prosecution under other laws.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender. Payment of fine as award to informant.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART IX.

MISCELLANEOUS.

67. Every order passed by a Canal-officer under sections 13, 18, 25, 30, 45, 46 and 48 shall be appealable to the Collector. Provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant. Appeals against orders under Act.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner[a].

68. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts Power to summon and examine witness.

[a] Words repealed by Bom. Act III of 1886 are omitted.

by the Code of Civil Procedure[a]; and every such enquiry shall be deemed a judicial proceeding. XIV of 1882.

Service of notices.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter and cancel rules.

70. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters:—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*c*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act;

(*e*) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the Bombay Government Gazette, and shall thereupon have the force of law.

Saving of municipal water-works.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake or other collection of water vesting in any municipality.

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[a] This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

THE KHOTÍ SETTLEMENT ACT, 1880.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent.
2. Repeal of sections 37 and 38 of Bombay Act I of 1865.
3. Interpretation-clause.
   Expressions defined in the Bombay Land-revenue Code.

PART II.

GENERAL PROVISIONS RELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Continuance of khots' villages to be subject to payment of jámá.

Inferior Holders.

5. What holders are to be deemed occupancy-tenants.
6. Right of occupancy when land has been wrongfully transferred.
7. Continuance of privileged occupants' tenures.
8. Ordinary tenants.

Transfer, etc., of Rights.

9. What rights are transferable.
10. Resignation, lapse or forfeiture of privileged occupants' lands.

Grant of Privileged occupants' Rights by Khots.

11. Privileged occupants' rights may be conferred by khots.
12. Record of grant.

Recovery of Rents.

13. Commutation-rates for rent payable in kind.
14. Rent of land which an occupancy-tenant neglects to cultivate.

Accounts.

15. Khots to keep accounts;
    and to produce them when required;
    and to give written receipts.
    Penalty.

PART III.

SURVEY AND SETTLEMENT.

Settlement-records.

SECTIONS.

16. Preparation of settlement register of khotí villages.
17. Privileged occupants' rents to be fixed.
18. When the khotkí is undivided, the co-sharers' respective rights to be recorded.
19. When the khotki is divided, each share to be treated separately.

Determination of Disputes.

20. Disputes to be determined by Survey-officer.
21. Survey-officer's decision when not final to be set aside only by a decree of Court.
22. Bar of suits against Survey-officer or Government.

PART IV.

ADMINISTRATION OF SURVEY-SETTLEMENTS MADE UNDER THIS ACT.

23. Provisions of this Part when to apply.

Khots' Jámá.

24. Jámá how to be calculated.
Amount to be fixed for certain periods.

Managing Khots.

25. Abolition of khots' kabuliyats.
26. Appointment of "managing khot."
27. Managing khot how to be nominated.
28. Collector's nomination not to be disputed.
But suits in respect to the right of management not barred amongst the khots themselves.
29. Managing khot's certificate.
30. Managing khot when there are no co-sharers.
31. Exclusive power of managing khot.

Separated Sharers.

32. Separated sharers to be severally responsible for their respective shares.

Privileged Occupants' Rents.

33. Nature and amount of rent payable by privileged occupants.
34. Privileged occupants' rents how and when to be paid.

Cesses, etc.

35. Abolition of all cesses, etc.

Local Fund Cess.

SECTIONS.

36. Khot's liability for local fund cess.
Dhárekaris and quasi-dhárekaris to what extent liable for the cess.
Other inferior holders not liable for the cess.

PART V.

MISCELLANEOUS.

37. Existing survey-settlements confirmed.
38. New settlements may be substituted for existing settlements.
39. Bombay Land-revenue Code, 1879, how far inapplicable to khotí villages.
40. Rules to be made by Governor in Council.
41. Government may constitute uncultivated land a reserved forest.
42. Reserved forest constituted under last preceding section to be subject to provisions of Indian Forest Act.

SCHEDULE.

BOMBAY ACT No. I OF 1880.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 6th May, 1880.*)

An Act to amend the law relating to the settlement of Villages held by Khots.

WHEREAS it is expedient to make special provision for the settlement and revenue-administration of villages in the Ratnágiri District which are held by khots; It is enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be cited as the Khotí Settlement Act, 1880. Short title.

It extends to all villages held by khots in the district of Ratnágiri. Extent.

The Governor in Council may from time to time, by notification in the Bombay Government Gazette, extend all or any of its provisions to any such village in the Kolába District.

Bom. I of 1865.

2. Sections 37 and 38 of the Bombay Survey and Settlement Act, 1865[a], are repealed so far as they apply to any village to which this Act extends, Repeal of sections 37 and 38 of Bombay Act I of 1865.

[a] Printed *supra*, p. 79.

or may hereafter be extended: Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section 28 of the said Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof:

(2) "khot" includes—

(*a*) a mortgagee lawfully in possession of a khotkí,

(*b*) all co-sharers in a khotkí:

(3) "khotkí" means the aggregate of the rights and interests vested in a khot as such:

(4) "jámá" means land-revenue payable by a khot to Government:

(5) "privileged occupant" means—

(*a*) a dhárekari, or

(*b*) a quasi-dhárekari, or

(*c*) an occupancy-tenant:

(6) "dhárekari" means a landholder who holds on the "dhára" tenure:

(7) "quasi-dhárekari" means a landholder of any of the denominations named in the first column of the schedule [a]:

(8) "occupancy-tenant" means a holder of khotí land who has a right of occupancy in such land:

(9) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari:

(10) "khotí land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land:

(11) [*Repealed by Bom. Act III of 1886, s. 2.*]

Expressions defined in the Bombay Land-revenue Code.

(12) any word or expression which is defined in the Bombay Land-revenue Code, 1879, [b] and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Bom. V of 1879.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] Printed *supra*, p. 303.

PART II.

General Provisions relating to Khots and their Inferior Holders.

Khots.

Continuance of khots' villages to be subject to payment of jámá.

4. Khots shall continue to hold their villages conditionally on the payment of the amounts due on account of the jámá of the same, according to the provisions of this Act and of the Bombay Land-revenue Code, 1879 [a], and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure.

Bom. V of 1879.

Inferior Holders.

What holders are to be deemed occupancy-tenants.

5. Every holder of khotí land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be the occupation or cultivating of the present holder within the meaning of this section;

and, in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

Right of occupancy when land has been wrongfully transferred.

6. If an occupancy-right which is not transferable otherwise than by inheritance, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein:

Provided that, if the actual holder is in possession of the land as mortgagee or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that, if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of

[a] Printed *supra*, p. 303.

section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

Continuance of privileged occupants' tenures.

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

Ordinary tenants.

8. Tenants other than occupancy-tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate: Provided that the said rates shall not exceed the maxima prescribed in section 33, clause (*c*).

Transfer, etc., of Rights.

What rights are transferable.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or, unless in the case of an occupancy-right conferred by the khot under section 11, the khot grants such right of transfer of the same.

Resignation, lapse or forfeiture of privileged occupants' lands.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed or forfeited, shall be at the disposal of the khot as khotí land free of all encumbrances, other than liens or charges created or existing in favour of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupant's Rights by Khots.

Privileged

11. It shall be competent to the khot at any time to confer on any

tenant the right of a privileged occupant of any class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class: Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest-produce of such land.

occupants' rights may be conferred by khots.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall cause an entry to be made, in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated by the Collector's signature shall be conclusive proof of the facts therein recorded.

Record of grant.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotki unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

13. Whenever application is made to the Collector under section 86 of the Bombay Land-revenue Code, 1879 [a], for assistance to recover rent from a privileged occupant, tenant or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fit, direct the recovery of the money-value of such rent, and in such case the money-value shall be estimated at such commutation-rates as the Collector may fix in this behalf for the year for which such rent is due.

Bom. V of 1879.

Commutation-rates for rent payable in kind.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding on account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

Rent of land which an occupancy-tenant neglects to cultivate.

In the event of a dispute as to the amount of rent due under this section, such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

[a] Printed *supra*, p. 303.

Accounts.

Khots to keep accounts;

and to produce them when required;

and to give written receipts.

15. The khot shall—

(*a*) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

(*b*) produce such accounts, whenever required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahálkari, and

(*c*) give a written receipt for every payment of rent or land-revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotkí.

Penalty.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector or the Assistant or Deputy Collector in charge of the táluqá in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jámá.

PART III.

SURVEY AND SETTLEMENT.

Settlement-records.

Preparation of settlement-register of khotí villages.

16. Whenever a survey-settlement of the land-revenue of any village to which this Act extends is made or revised under the provisions of Chapter VIII of the Bombay Land-revenue Code, 1879 [a], the settlement-register prepared under section 108 of the said Code shall show the area and assessment of each survey-number and also whether such survey-number is held by a privileged occupant or not. Bom. V of 1879.

If a survey-number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number if held, the name of the registered occupant thereof, and, in the case of a survey-number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey-numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or, if a partition of the khotkí has taken place, of the co-sharers to whose shares they respectively belong.

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[a] Printed *supra*, *p.* 303.

The said register shall also contain a list of all the co-sharers of the khotkí, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotkí.

Privileged occupants' rents to be fixed.

17. The other records prepared under the said section shall specify the nature and amount of rent payable to the khot by each privileged occupant according to the provisions of section 33 [a], and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established.

When the khotkí is undivided, the co-sharers' respective rights to be recorded.

18. If the khotkí is undivided, the said records shall also specify—

(*a*) the survey-numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same; and

(*b*) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility; and

(*c*) the order of rotation in which the said co-sharers agree in writing, if they do so agree, to take the management of the village under the provisions of section 27 [a].

When the khotkí is divided, each share to be treated separately.

19. If a partition has been effected and the co-sharers of the khotkí hold their respective shares in severalty, the said records shall specify—

(*a*) the extent and limits of each such separate share; and

(*b*) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by the last preceding section to be given concerning all the co-sharers when a khotkí is undivided.

Determination of Disputes.

Disputes to be determined by Survey-officer.

20. If it shall appear to the Survey-officer, who frames the said register or other record, that there exists any dispute as to any matter which he is bound to record, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the said register or other record accordingly.

Survey-officer's decision when not final to be set aside only by a decree of Court.

21. In any such matter the decision of the said Survey-officer, when not final, shall be binding upon all the parties affected thereby until reversed or modified by a final decree of a competent Court.

[a] Words repealed by Bom. Act III of 1886 are omitted.

Bar of suits against Survey-officer or Government.

22. No suit shall lie against the said Survey-officer, or against Government, or any officer of Government to set aside any such decision of a Survey-officer; but the record shall from time to time be amended by the said Survey-officer, or, when the survey-settlement is concluded, by the Collector, in accordance with any such decree as aforesaid which the parties may obtain *inter se* on an application, accompanied by a certified copy of such decree, being duly made to the said Survey-officer, or to the Collector for that purpose.

PART IV.

ADMINISTRATION OF SURVEY-SETTLEMENTS MADE UNDER THIS ACT.

Provisions of this Part when to apply.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey-settlement or a revised survey-settlement of such village and declares the assessments settled thereunder fixed for a period of years, in accordance with section 102 of the Bombay Land-revenue Code, 1879 [a]. Bom. V of 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jámá.

Jámá how to be calculated.

24. The jámá payable to Government by the khot shall be the aggregate of the survey-assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

Amount to be fixed for certain periods.

The amount of the said jámá shall be from time to time fixed for the same period for which the survey-assessments are fixed.

Managing Khots.

Abolition of khots' kabuliyats.

25. The annual kabuliyats hitherto executed by khots shall no longer be required from them: Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

Appointment of "managing khot."

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jámá, but one of their

[a] Printed *supra*, p. 303.

number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

Bom. V of 1879.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the Bombay Land-revenue Code, 1879 [a], be deemed to be the registered occupant of all survey-numbers in the village not held by privileged occupants.

Managing khot how to be nominated.

27. If the co-sharers have, at the time of the framing of the survey settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, the co-sharers shall be called upon to nominate one of their number year by year, and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the Bombay Land-revenue Code, 1879 [a].

Bom. V of 1879.

Collector's nomination not to be disputed.

28. A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination.

But suits in respect to the right of management not barred amongst the khots themselves.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the management, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

Managing khot's certificate.

29. Except as is hereinafter provided, the mámlatdár shall furnish every managing khot with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates, and a certificate so signed and sealed shall be conclusive

[a] Printed *supra*, p. 303.

evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

Managing khot when there are no co-sharers.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

Exclusive power of managing khot.

31. When a managing khot has been duly appointed under any of the foregoing provisions, he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the Bombay Land-revenue Code, 1879 [a]. Bom. V of 1879.

Separated Sharers.

Separated sharers to be severally responsible for their respective shares.

32. When the khots have divided their khotkí or a partition thereof has been effected by the Civil Court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jámá payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jámá so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkís.

Privileged Occupants' Rents.

Nature and amount of rent payable by privileged occupants.

33. The rent payable to the khot by privileged occupants shall be as follows (namely) :—

(*a*) by a dhárekari : the survey-assessment of his land ;

(*b*) by a quasi-dhárekari : the survey-assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule [b] ;

(*c*) by an occupancy-tanant : such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey-record, or at any subsequent period, be agreed upon between the khot and the said tenant ;

or on the expiry of the term for which any such agreement shall have been or shall be made, or, if no such agreement have been or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-

[a] Printed *supra*, p. 303.
[b] Words repealed by Bom. Act III of 1886 are omitted.

third in the case of warkas-land, and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the Survey-officer who frames the survey-record, shall determine to be the customary amount hitherto paid by occupancy-tenants in the village in which the said land is situate.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments and subject to such rules not inconsistent with the provisions of this Act as may from time to time be prescribed in this behalf by the Governor in Council. Privileged occupants' rents how and when to be paid.

Cesses, etc.

35. It shall not be lawful for any khot to levy *phaski, veth, nángarveth, wartála,* or any other cess, rate, tax or service of any description or denomination whatsoever, from any privileged occupant other than the rent lawfully leviable under the provisions of this Act. Abolition of all cesses, etc.

Local Fund Cess.

36. Local fund cess at such rate as shall from time to time be fixed by Government under section 6 of the Bombay Local Funds Act, 1869[a], shall be leviable by Government from the khot on every rupee of his jámá. Khot's liability for local fund cess.

Bom. III of 1869.

The khot shall be entitled to assistance under sections 86 and 87 of the Bombay Land-revenue Code, 1879 [b], for recovery of the said cess at the said rate from dhárekaris and quasi-dhárekaris on every rupee of the survey-assessment of the lands in their respective holdings. Dhárekaris and quasi-dhárekaris to what extent liable for the cess.

Bom. V of 1879.

Inferior holders of khotí lands shall not be liable to local fund cess, anything contained in section 8 of the Bombay Local Funds Act, 1869 [a], to the contrary notwithstanding. Other inferior holders not liable for the cess.

Bom. III of 1869.

PART V.

MISCELLANEOUS.

37. Existing survey-settlements of the land-revenue of any village to which this Act extends, made, approved and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and Existing survey-settlements confirmed.

[a] Printed *supra*, p. 133.
[b] Printed *supra*, p. 303.

anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

New settlements may be substituted for existing settlements.

38. Upon the expiry of the period of any such guarantee, or, if it shall appear to the Governor in Council that a majority of the landholders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey-settlement shall be introduced into the village in which such guarantee was in force, and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

Bombay Land-revenue Code, 1879, how far inapplicable to khoti villages.

39. Nothing in sections 68, 72, 73, 74, 99, clause (*b*), 104, para. 2, 112, 150, clause (*b*), and 153 of the Bombay Land-revenue Code, 1879 [a], shall be deemed to apply to any village to which this Act extends. Bom. V of 1879.

The provisions of the said Code when applied to any such village shall be subject to the following modifications (namely) :—

(*a*) when a survey-settlement is being introduced under section 103, the rent payable by each privileged occupant and the amount of jámá payable by the khot shall be announced in lieu of the assessment fixed on each survey-number ;

(*b*) sections 118, 119 and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village-officers," and the words "village-officers" and the words "village-officers and servants," wherever they occur ;

(*c*) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jámá of his village ;

(*d*) the word "alienated" in clause (*f*) of section 150 shall be deemed to be omitted ; and,

(*e*) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within twelve years from the first day of August next after such date.

Rules to be made by Governor in Council.

40. The Governor in Council may, by notification in the Bombay Government Gazette, from time to time frame, and from time to time vary or rescind, rules not inconsistent with the provisions of this Act—

(*a*) for the inspection and appraisement of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land ;

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[a] Printed *supra*, p. 303.

(*b*) for determining what land is dhára land;

(*c*) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(*d*) determining to what extent, if any, any rule, or order made under section 214 of the Bombay Land-revenue Code, 1879 [a], shall be applicable to villages to which this Act extends;

Bom. V of 1879.

(*e*) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(*f*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

Government may constitute uncultivated land a reserved forest.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots; it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority.

Explanation.—For the purposes of this section "uncultivated land" means land which has not been tilled for a period of twenty years next before the 1st June, 1879, or the date of the order constituting such reserved forest.

Reserved forest constituted under last preceding section to be subject to provisions of Indian Forest Act.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878 [b], and of any other law relating to forests for the time being in force: provided—

VII of 1878.

(1) that, upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(2) that, in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the Indian Forest Act, 1878 [b], shall be applicable.

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[a] Printed *supra*, p. 303.

[b] For Act VII of 1878 see the revised edition, as modified up to 1st December, 1894, published by the Legislative Department.

SCHEDULE.

(*See section 3, clause 7, and section 33.*)

Denomination of Quasi-dhárêkaris.	Excess amount of rent payable for every Rupee and proportionately for every fraction of a Rupee of the Survey-assessment in respect of		
	Rice lands.	Warkas lands.	Bágait or Rábi lands.
Daspatkari	2 annas	2 annas	2 annas.
Dupatkari	½ maund of rice in the husk.	5¼ pailis of grain (half *nachani* and half *vari*).	8 annas.
Didpatkari or Didiwala.	3 pailis of rice in the husk.	2 pailis of grain (half *nachani* and half *vari*).	3 annas.
Paunedupatkari.	6 pailis of rice in the husk.	4 pailis of grain (half *nachani* and half *vari*).	6 annas.

INDEX.

Subject.	Bom. Act.	Page.
Abkárí	V of 1878	260
Ahmadabad táluqdárs	VI of 1862	8
Bhágdárí tenures	V of 1862	4
Bombay Port Trust	VI of 1879	377
Bridges; tolls on,	III of 1875	215
Conveyances, public	VI of 1863	52
Council. *See* Legislative Council.		
Courts of Mámlatdárs	III of 1876	237
„ in Sindh	XII of 1866	93
	III of 1868	132
Edulábád pargana	XIV of 1866	99
Endowments, religious	VII of 1865	81
Exemptions from land-revenue	II of 1863	17
	VII of 1863	65
Fairs	IV of 1862	2
Ferries	II of 1868	127
	II of 1878	257
Funds. *See* Local Funds.		
Gáikwár; lands ceded by,	I of 1862	1
Gas Companies	V of 1863	42
Heirs to Hindús; relief of,	VII of 1866	83
Hereditary offices	III of 1874	192
Hindú Heirs' Relief	VII of 1866	83
Indus; vessels plying on,	I of 1863	13
Irrigation	VII of 1879	416
Jails	II of 1874	185

Subject.	Bom. Act.	Page.
Kanára; extension of Religious Endowments Act to,	VII of 1865	81
Kárachí; vaccination in,	IV of 1879	282
Khoti Settlement	I of 1880	437
Khots; leases to,	I of 1865	79
Lands ceded by Gáikwár	I of 1862	1
Land-revenue in Bombay City	II of 1876	222
„ „ generally	V of 1879	303
„ „ exemptions from,	II of 1863 VII of 1863	17 65
Leases to Khots	I of 1865	79
Legislative Council; witnesses before,	XIII of 1866	97
Local Funds	III of 1869	133
„ „ in Sindh	VIII of 1865	81
Mámlatdárs' Courts	III of 1876	237
Markets	IV of 1862	2
Muchandi village, de-regulationised	III of 1863	28
Municipalities in districts	VI of 1873	139
Narwádárí tenures	V of 1862	4
Offices. *See* Hereditary offices.		
Poisons; sale of,	VIII of 1866	86
Police in Bombay town	I of 1872 II of 1879	135 280
„ in districts	VII of 1867	108
„ in villages	VIII of 1867 I of 1876	120 210
Port Trust, Bombay	VI of 1879	[illegible]
Public Conveyances	VI of 1863	52
Religious Endowments	VII of 1865	81
Revenue. *See* Land-revenue.		

Subject.	Bom. Act.	Page.
Roads; tolls on,	III of 1875	215
Sale of poisons	VIII of 1866	86
Sanitation, Bombay City	VI of 1867	101
Satára villages	III of 1863	28
Settlement	I of 1865	79
	IV of 1868	Not republished.
	I of 1875	Ditto.
„ Khoti	I of 1880	437
Sholápur villages	III of 1863	28
Sindh Courts	XII of 1866	93
	III of 1868	132
„ Local Funds	VIII of 1865	81
„ Vaccination, Kárachí	IV of 1879	282
Southern Marátha villages	III of 1863	28
Surat; lands annexed to,	I of 1862	1
Survey of steam-vessels	II of 1864	78
Survey and settlement	I of 1865	79
	IV of 1868	Not republished.
	I of 1875	Ditto.
Táluqdárs, Ahmadabad	VI of 1862	8
Tolls on Roads and Bridges	III of 1875	215
Tramways	I of 1874	167
Vaccination in Bombay City	I of 1877	247
„ in Kárachí	IV of 1879	282
Vessels plying on Indus	I of 1863	13
„ steam	II of 1864	78
Wagers	III of 1865	80
Warangáon pargana	XIV of 1866	99
Witnesses before Legislative Council	XIII of 1866	97

G. I. C. P. O.—No. 5 L. D.—11-2-96.—2,000.

Pages lxv to lxx of the Appendix to Volume I of this Code should be cancelled, and the annexed sheet substituted for pages i and ii.

APPENDIX.

ENACTMENTS NOTIFIED FOR SCHEDULED DISTRICTS IN BOMBAY UNDER THE SCHEDULED DISTRICTS ACT, 1874 [a].

The Scheduled Districts in Bombay are—

1. The Province of Sindh [b].
2. Aden [c].
3. The villages belonging to the following Mehwassi Chiefs [d]:—
   (1) the Párví of Káthí;
   (2) the Párví of Nál;
   (3) the Párví of Singpúr;
   (4) the Walwi of Gaohállí;
   (5) the Wassáwa of Chikhlí;
   (6) the Párví of Nawalpúr.

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[a] For Act XIV of 1874 see the revised edition, as modified up to 1st October, 1895, published by the Legislative Department.

[b] See Part II of the First Schedule to the Scheduled Districts Act, 1874.

The provisions of 33 Vict., chapter 3, section 1, were declared applicable to the districts (taluqs) of Kohistán, Johí, Nasirabad, Sujáwal, Sihwán, Kakkur, Kumber, Jacobábád, Thal and Kasmur from the 1st January, 1873—see Gazette of India, 1872, Part I, p. 1076.

[c] Aden was declared by the Scheduled Districts Act, 1874, to be a scheduled district—see Part II of the First Schedule to the Act.

The provisions of 33 Vict., chapter 3, section 1, were declared applicable to the Island of Perim from the 10th September, 1884—see Gazette of India, 1887, Part I, p. 239. The island therefore became a scheduled district, under the operation of the Scheduled Districts Act, 1874, s. 1.

The provisions of 33 Vict., chapter 3, section 1, were declared applicable to Aden from the 30th September, 1885—see Gazette of India, 1885, Part I, p. 675.

The said provisions were again declared applicable, from the 9th November, 1886, to the "Settlement of Aden and its dependencies (for the time being), inclusive of the villages of Shaikh Othman, Imad and Hiswa, the Island of Perim and Little Aden"—see Gazette of India, 1887, Part I, p. 33. This declaration was made in continuation of the declarations as to Perim and Aden noted immediately above—see Gazette of India, 1887, Part I, p. 240.

It has since been enacted that "in all enactments and rules heretofore or hereafter passed and made by the Governor General in Council or the Governor of Bombay in Council, the word 'Aden' shall, unless there is something repugnant in the subject or context, or the word is used with reference to Her Majesty's Vice-Admiralty Court at Aden, be construed to mean the settlement of Aden and such of its dependencies for the time being, inclusive of the villages of Shaikh Othman, Imad and Hiswa, the Island of Perim and Little Aden, as are administered by the Governor of Bombay in Council"—see Reg. II of 1891, s. 2, *supra*, p. 277.

[d] See Part II of the First Schedule to the Scheduled Districts Act, 1874.

[The Panch Mahâls ceased to be a Scheduled District from 1st May, 1885—see Act VII of 1885, section 4, printed *supra*, p. 261.]

[Peint ceased to be a Scheduled District from 1st January, 1895—see Bombay Act II of 1894, printed in Vol. III of this Code.]

PUBLICATIONS OF THE LEGISLATIVE DEPARTMENT OF THE GOVERNMENT OF INDIA.

These publications may be obtained from the Office of the Superintendent of Government Printing, No. 8, Hastings Street, Calcutta. The amounts within parenthesis are for packing and postage.

The prices of the General Acts, Local Codes, Indices to Enactments and Merchant Shipping Digest have been considerably reduced.

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REVISED EDITION.

Super-royal 8vo, cloth, lettered.

[The Collection of Statutes relating to India (Ed. 1881), the volumes of General Acts for 1877—84, the Baluchistan Code (Ed. 1890), the Burma Code (Ed. 1889), the Central Provinces Code (Ed. 1891) and the North-Western Provinces and Oudh Code (Ed. 1892) are out of print.]

A.—GENERAL ACTS.

The General Acts from 1834 to 1866, Ed. 1887. Price, R5. (12*a*.)

The General Acts from 1867 to 1876, Ed. 1887. Price, R5. (12*a*.)

The General Acts from 1885 to 1888, Ed. 1889. Price, R5. (6*a*.)

B.—LOCAL CODES.

The Ajmere Code, Ed. 1893. Price, R3. (7*a*.)

The Bengal Code, Vol. I, Ed. 1889; containing the Bengal Regulations, the Local Acts of the Governor General in Council and the Regulations made under 33 Vict., cap. 3, in force in Bengal. Price, R5. (10*a*.)

The Bengal Code, Vol. II, Ed. 1890; containing the Acts of the Lieutenant-Governor of Bengal in Council in force in Bengal. Price, R5. (R1.)

The Bombay Code, Vol. I, Ed. 1894; containing the unrepealed Bombay Regulations and the Local Acts of the Governor General in Council and the Regulations made under the Statute 33 Vict., cap. 3, in force in Bombay. Price, R4. (8*a*.)

The Bombay Code, Vol. II, Ed. 1896; containing the unrepealed Acts of the Governor of Bombay in Council up to the end of the year 1880. Price, R5. (10*a*.)

The Coorg Code, Ed. 1893. Price, R2. (6*a*.)

The Madras Code, Ed. 1888. Price, R5. (10*a*.)

The Punjab Code, Ed. 1888. Price, R4. (8*a*.)

In the Press.

The Assam Code.

The Bombay Code, Vol. III, Ed. **1896**; containing the unrepealed Acts of the Governor of Bombay in Council from 1881.

C.—CHRONOLOGICAL TABLES.

Chronological Tables of Enactments of British Indian Legislatures, with repeals and amendments noted up to the 1st November, 1895:—

Part I, comprising Enactments passed by the Governor General in Council or by the Governor General alone. Price, annas 12 (3*a.*)

Part II, comprising Enactments passed by Local Legislatures. Price, annas 12 (3*a.*)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION.

Acts X of 1841 and XI of 1850 (Registration of Ships), as modified up to 1st December, 1893. 7*a.* (1*a.*)

Act IV of 1857 (Tobacco, Bombay town), as modified up to 1st August, 1895. 3*a.* 9*p.* (1*a.*)

Act XXIX of 1857 (Land Customs, Bombay), as modified up to 1st December, 1895. 4*a.* (1*a.*)

Act XLV of 1860 (Indian Penal Code), as modified up to 1st August, 1890. R2. (4*a.*)

Act V of 1861 (Police), as modified up to 1st March, 1895. 6*a.* 6*p.* (1*a.*)

Act VI of 1864 (Whipping), as modified up to 1st March, 1895. 3*a.* 6*p.* (1*a.*)

Act XVII of 1864 (Official Trustees), as modified up to 1st July, 1890. 5*a.* 6*p.* (1*a.*)

Act X of 1865 (Succession), as modified up to 1st July, 1890. R1-8. (2*a.*)

Act XXV of 1867 (Printing Presses and Books), as modified up to 1st July, 1890. 5*a.* (1*a.*)

Act V of 1869 (Indian Articles of War), as modified up to 1st January, 1895. R1-2. (2*a.*)

Act VII of 1870 (Court-fees), as modified up to 1st July, 1891; with an Appendix containing Notification No. 4650, dated 10th September, 1889, reducing and remitting Court-fees, and an Index. R1. (2*a.*)

Act XXIII of 1870 (Coinage), as modified up to 27th June, 1893, with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663, and 2664, dated the 26th June, 1893, connected therewith. 4*a.* 9*p.* (1*a.*)

Act I of 1871 (Cattle-trespass), as modified up to 1st March, 1891. 5*a.* (1*a.*)

Act V of 1871 (Prisoners), as modified up to 1st May, 1894. 5*a.* 6*p.* (1*a.*)

Act I of 1872 (Evidence), as modified up to 1st May, 1891. R1. (2a.)

Act III of 1872 (Marriage), as modified up to 1st June, 1893. 4a. 6p. (1a.)

Act IV of 1872 (Punjab Laws), as modified up to 1st July, 1891. 7a. (1a.)

Act IX of 1872 (Contract), as modified up to 1st June, 1893. R1-4. (3a.)

Act XV of 1872 (Christian Marriage), as modified up to 1st January, 1894. 10a. (2a.)

Act V of 1873 (Savings Banks), as modified up to 1st July, 1894. 3a. 6p. (1a.)

Act II of 1874 (Administrator General), as modified up to 1st July, 1890, with a list of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, for the purposes of the Act. 11a. (2a.)

Act XIV of 1874 (Scheduled Districts), as modified up to 1st October, 1895. 6a. 6p. (1a.)

Act XV of 1874 (Laws Local Extent), as modified up to 1st October, 1895. 7a. (1a.)

Act I of 1877 (Specific Relief), as modified up to 1st July, 1894. 11a. (2a.)

Act III of 1877 (Registration), as modified up to 1st December, 1892. 11a. (2a.)

Act XV of 1877 (Limitation), as modified up to 1st December, 1892. 12a. (2a.)

Act I of 1878 (Opium), as modified up to 1st July, 1894. 4a. 9p. (1a.)

Act VII of 1878 (Forests), as modified up to 1st December, 1894. 10a. (2a.)

Act VIII of 1878 (Sea Customs), as modified up to 1st July, 1891. R1-5-3. (4a.)

Act XI of 1878 (Arms), as modified up to 1st July, 1892. 11a. (2a.)

Act I of 1879 (Stamps), as modified up to 1st November, 1895; with Appendices containing notifications reducing and remitting stamp duties and publishing rules under the Act. R1. (2a.)

Act XVII of 1879 (Dekkhan Agriculturists' Relief), as modified up to 1st March, 1895. 10a. (2a.)

Act VII of 1880 (Merchant Shipping), as modified up to 15th October, 1891. 10a. (2a.)

Act V of 1881 (Probate and Administration), as modified up to 1st July, 1890. 12a. (2a.)

Act XV of 1881 (Factories), as modified up to 1st April, 1891. 5a. (1a.)

Act XVIII of 1881 (Central Provinces Land-revenue), as modified up to 1st January, 1895. R 1-2. (2a.)

Act XIX of 1881 (Lower Burma Forests), as modified up to 1st July, 1890. 10a. (2a.)

Act XXII of 1881 (Excise), as modified up to 30th September, 1893. 8a. (2a.)

Act I of 1882 (Assam Labour and Emigration), as modified up to 1st May, 1893. R1-2. (2a.)

Act IV of 1882 (Transfer of Property), as modified up to 1st April, 1893. 15*a*. (2*a*.)

Act VI of 1882 (Companies), as modified up to 1st August, 1895; with Appendices containing Table B in the Schedule to Act XIX of 1857 and the Indian Companies (Memorandum of Association) Act, 1895. R1-2. (3*a*. 6*p*.)

Act X of 1882 (Criminal Procedure), as modified up to 15th December, 1888. R3. (6*a*.)

Act XII of 1882 (Salt), as modified up to 1st December, 1890. 6*a*. (1*a*.)

Act XIV of 1882 (Civil Procedure), as modified up to 1st July, 1888. R3. (6*a*.)

Act XV of 1882 (Presidency Small Cause Courts), as modified up to 1st February, 1895. 10*a*. (2*a*.)

Act XX of 1882 (Paper Currency), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663, and 2664, dated the 26th June, 1893, connected therewith. 5*a*. 6*p*. (1*a*. 6*p*.)

Act VIII of 1883 (Little Cocos and Preparis Islands Laws), as modified up to 1st January, 1895. 1*a*. 3*p*. (1*a*.)

Act IX of 1883 (Central Provinces Tenancy), as modified up to 1st December, 1894. 10*a*. (2*a*.)

Act XXI of 1883 (Emigration), as modified up to 1st December, 1890. 11*a*. (1*a*. 6*p*.)

Act VI of 1884 (Inland Steam-vessels), as modified up to 1st July, 1891. 9*a*. (2*a*.)

Act VII of 1884 (Steam-ships), as modified up to 1st July, 1890. 6*a*. (1*a*.)

Act XVII of 1884 (Lower Burma Municipalities), as modified up to 1st August, 1895. R1. (2*a*. 6*p*.)

Act XVIII of 1884 (Punjab Courts), as modified up to 1st April, 1891. 7*a*. (1*a*. 6*p*.)

Act II of 1886 (License-tax amendment), as modified up to 1st July, 1894. 8*a*. (1*a*. 6*p*.)

Act VI of 1886 (Births, Deaths and Marriages Registration), as modified up to 1st June, 1891. 6*a*. (1*a*.)

Act XII of 1886 (Petroleum), as modified up to 1st June, 1893. 6*a*. (1*a*.)

Act IX of 1887 (Provincial Small Cause Courts), as modified up to 1st December, 1894. 6*a*. (1*a*.)

Act IV of 1889 (Merchandise Marks), as modified up to 1st June, 1891. 6*a*. (1*a*.)

Act X of 1889 (Ports), as modified up to 1st June, 1894. 11*a*. (2*a*.)

Act XIII of 1889 (Cantonments), as modified up to 1st March, 1895. 7*a*. (1*a*.)

Act VIII of 1894 (Tariff), as modified up to 28th December, 1894. 6*a*. (1*a*.)

Regulation I of 1886 (Assam Land and Revenue), as modified up to 1st June, 1894. 13*a*. (2*a*.)

Regulation VIII of 1886 (Upper Burma Civil Justice), as modified up to 1st April, 1891. 8*a*. (1*a*.)

Regulation XIV of 1887 (Upper Burma Villages), as modified up to 1st April, 1891. 5*a*. (1*a*.)

In the Press.

Act VIII of 1894 (Tariff), as modified up to date.

III.—ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS ORIGINALLY PASSED.

Acts (unrepealed) of the Governor General of India in Council, from 1854 to date.

Regulations made under the Statute 33 Vict., cap. 3, from No. II of 1875 to date, 8vo, stitched.

The above may be obtained separately. The price is noted on each.

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Act XXXVI of 1858 (Lunatic Asylums), as modified up to 1st March, 1893. In Urdu. 1*a*. 3*p*. (1*a*.)

Act XLV of 1860 (Indian Penal Code), as modified up to 1st January, 1893. In Urdu. R1. (5*a*.)

Act V of 1861 (Police), as modified up to 1st March, 1895. In Urdu. 2*a*. 3*p*. (1*a*.)

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Act VI of 1864 (Whipping), as modified up to 1st March, 1895. In Urdu. 1*a*. (1*a*.)

Act V of 1869 (Indian Articles of War), as modified up to 1st January, 1895. In English, Urdu and Nagri. Bound, R3. (5*a*.); unbound, R2-8. (5*a*.)

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Act XXIII of 1870 (Coinage), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663, and 2664, dated the 26th June, 1893, connected therewith. In Urdu. 1*a*. 3*p*. (1*a*.)

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Act IX of 1872 (Contract), as modified up to 1st June, 1893. In Urdu. 12*a*. (4*a*.)

Act XV of 1872 (Christian Marriage), as modified up to 1st April, 1891. In Urdu. 4*a*. (2*a*.)

Ditto. In Nagri. 4*a*. (2*a*.)

Act I of 1877 (Specific Relief), as modified up to 1st July, 1894. In Urdu. 5*a*. (1*a*. 6*p*.)

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Act XV of 1877 (Limitation), as modified up to 1st December, 1892. In Urdu. 4*a*. 6*p*. (2*a*.)

Act I of 1878 (Opium), as modified up to 1st July, 1894. In Urdu. 1*a*. 3*p*. (1*a*.)

Act VII of 1878 (Forests), as modified up to 1st December, 1894. In Urdu. 4*a*. (1*a*. 6*p*.)

Ditto. In Nagri. 3*a*. 9*p*. (1*a*. 6*p*.)

Act XI of 1878 (Arms), as modified up to 1st July, 1892. In Urdu. 1*a*. 9*p*. (1*a*. 6*p*.)

Act I of 1879 (Stamps), as modified up to 1st July, 1894; with Appendices containing notifications reducing and remitting stamp duties and publishing rules under the Act. In Urdu. 10*a*. 6*p*. (3*a*.)

Act XV of 1881 (Factories), as modified up to 1st April, 1891. In Urdu. 1*a*. 6*p*. (1*a*.)

Ditto. In Nagri. 1*a*. 6*p*. (1*a*.)

Act XXII of 1881 (Excise), as modified up to 1st June, 1890. In Nagri. 2*a*. 6*p*. (2*a*.)

Ditto, as modified up to 30th September, 1893. In Urdu. 3*a*. (2*a*.)

Act I of 1882 (Assam Labour and Emigration), as modified up to 1st May, 1893. In Urdu. 6*a*. (2*a*.)

Ditto. In Nagri. 6*a*. (2*a*.)

Act XIV of 1882 (Civil Procedure), as modified up to 1st January, 1892. In Urdu. R1-6. (8*a*.)

Act XX of 1882 (Paper Currency), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663, and 2664, dated the 26th June, 1893, connected therewith. In Urdu. 1*a*. 6*p*. (1*a*.)

Act XVIII of 1884 (Punjab Courts), as modified up to 1st May, 1894. In Urdu. 2*a*. 6*p*. (1*a*. 6*p*.)

Act XIII of 1885 (Telegraphs), as modified up to 1st March, 1893. In Urdu. 1*a*. 9*p*. (1*a*.)

Act IX of 1887 (Provincial Small Cause Courts), as modified up to 1st March, 1893. In Urdu. 2*a*. (1*a*. 6*p*.)

Act III of 1888 (Police), as modified up to 1st March, 1893. In Urdu. 6*p*. (1*a*.)

Act IV of 1888 (Indian Reserve Forces), as modified up to 1st March, 1893. In Urdu. 3*p*. (1*a*.)

Act IV of 1889 (Merchandise Marks), as modified up to 1st June, 1891. In Urdu. 2*a*. (1*a*.)

Act VII of 1889 (Succession Certificates). In Urdu. 1*a*. 6*p*. (1*a*.)

Act X of 1889 (Ports), as modified up to 1st June, 1894. In Urdu. 5*a*. (2*a*.)

Act XIII of 1889 (Cantonments), as modified up to 1st March, 1893. In Urdu. 2*a*. 3*p*. (1*a*. 9*p*.)

Ditto. In Nagri. 3*a*. (1*a*. 9*p*.)

Act XV of 1889 (Official Secrets). In Urdu. 3*p*. (1*a*.)

Act I of 1890 (Revenue Recovery). In Urdu. 3*p*. (1*a*.)

Act VIII of 1890 (Guardians and Wards). In Urdu. 2*a*. 3*p*. (1*a*. 9*p*.)

Act IX of 1890 (Railways). In Nagri. 3*a*. 6*p*. (2*a*.)

Act XI of 1890 (Prevention of Cruelty to Animals). In Urdu. 3*p*. (1*a*.)

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